

STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT FOR STORMWATER
DISCHARGES FROM CONSTRUCTION ACTIVITY FACT SHEET

NPDES Construction General Permit (CGP)

State Permit Number: WPCC 3082/20

NPDES CGP Permit No. DE 0051268

Applicant(s) & Activity Description

The Delaware Department of Natural Resources and Environmental Control (herein after the Department) has reached a final determination to issue the National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) for stormwater discharges from construction activity. The Department intends to issue the CGP with an effective date of March 11, 2026, and a term of five (5) years.

Areas that engage in construction activities that result in land disturbance equal to or greater than one (1.0) acre that discharge stormwater to Waters of the State are to be covered under the NPDES CGP. This CGP will provide permit coverage for a broad range of construction projects that meet the minimum land disturbance threshold as defined by the Federal CGP.

This CGP covers all new and existing stormwater discharges that are composed in whole or in part of discharges from construction activity as defined by 40 CFR §122.26 and 40 CFR Part 450 as well as State Requirements described under 7 Del.C. Chapter 60, Environmental Control, 7 Del. Admin. C. 7201 subsection 9.2, Regulations Governing the Control of Water Pollution, Part 2 – Special Conditions for Stormwater Discharges from Construction Activities, and 7 Del.C. Chapter 40, Erosion and Sedimentation Control, 7 DE Admin. Code 5101, Sediment and Stormwater Regulations.

Purpose/Authority

The purpose of the Federal NPDES stormwater program is to control pollution generated from runoff associated with industrial activity, including construction, and municipal separate storm sewer systems. An individual or general permit is required for all construction activity in the State of Delaware with a planned total disturbance of one (1.0) acre or greater as well as activities that

are less than one acre but part of a larger common plan of development or sale where the total disturbance is greater than one acre.

Conditions of the CGP include compliance with the requirements of the approved sediment and stormwater management plan as well as visual monitoring/inspections, recordkeeping, and

reporting requirements. This CGP authorizes stormwater discharges from construction activities with land disturbance equal to or greater than one (1.0) acre. Sediment is the primary pollutant to be controlled from construction sites. The volume of stormwater discharge from construction sites varies and will depend on the size of the site, weather conditions, as well as other factors.

Statutory authority for permit issuance of Delaware's NPDES CGP is provided through Section 402 of the Federal Clean Water Act (CWA) as amended, and 7 Del.C. Chapter 60, Section 6003 and the MOA authorizing Delaware to implement the NPDES program. This CGP is a State permit that is subject to both Federal and State Regulations. The CWA and federal regulations provide the Federal permit requirements.

The CGP shall be administered in accordance with the following State requirements:

- 7 Del. Admin. C. 7201 subsection 9.2, Regulations Governing the Control of Water Pollution Part 2 – Special Conditions for Stormwater Discharges from Construction Activities
- 7 Del.C. Ch. 60, Environmental Control
- 7 Del.C. Ch. 40, Erosion and Sedimentation Control
- 7 DE Admin. Code 5101, Delaware Sediment and Stormwater Regulations (DSSR)
- Delaware Erosion & Sediment Control (ESC) Handbook, as amended
- Permit History

Permit History

Prior to 2021, the CGP for stormwater discharges associated with construction activity was permitted by regulation. The governing authority was 7 Del. Admin. C. 7201, subsection 9.2, Regulations Governing the Control of Water Pollution, Part 2 – Special Conditions for Stormwater Discharges from Construction Activities.

On March 11, 2021, the Department's Sediment and Stormwater Program issued the first stand-alone CGP. To support this change, the Department revised subsection 9.2 of 7 Del. Admin. C. 7201 to align with the CGP, which will be reauthorized on a recurring 5-year cycles.

General Permit Approach

A general permit for construction activities is an appropriate approach for the following reasons:

1. A general permit is an efficient method to establish the essential regulatory requirements for a broad range of construction activities under differing site conditions;
2. A general permit is the most efficient method to handle the large number of construction stormwater permit applications;
3. The application process for coverage under a general permit is far less onerous than that for individual permits and hence more cost effective;
4. A general permit is consistent with EPA's four-tier permitting strategy, the purpose of which is to use the flexibility provided by the CWA in designing a workable and efficient permitting system; and
5. A general permit is designed to provide coverage for a group of related facilities or operations of a specific industry type or group of industries. It is appropriate when the discharge characteristics are sufficiently similar, and a standard set of permit requirements can effectively provide environmental protection and comply with water quality standard for discharges. In most cases, the general permit will provide sufficient and appropriate management requirements to protect the quality of receiving waters from discharges of stormwater from construction sites.

There may be instances where a general permit is not appropriate for a specific construction project or the project does not meet the eligibility requirements. In those instances, the Department may require any discharger to apply for and obtain an individual permit. The Department must determine that this CGP does not provide adequate assurance that water quality will be protected, or there is a site-specific reason why an individual permit should be required.

Summary of Changes to the 2021 CGP

A. Process to Identify Permit Changes

During the early stages of developing the updated permit, DNREC gathered input through written comments and meetings with stakeholders, including representatives from the construction, waste management, and engineering industries, as well as delegated agencies. The goal was to identify areas of the 2021 CGP that required clarification or modification to better support the permit's pollutant reduction objectives.

Stakeholder feedback led to a pilot study on modified waste management practices. Insights from that study, combined with feedback from permit holders and DNREC staff involved in permit review and enforcement, helped determine where clearer guidance or procedural updates could improve compliance and permit implementation.

B. Summary of Permit Changes

The revisions finalized for the 2026 CGP are narrow in scope, addressing specific issues identified by stakeholders and DNREC staff. These targeted changes are intended to improve clarity, compliance, and operational efficiency and may have a positive fiscal impact on the regulated community.

A summary of major updates is presented in a table that categorizes each change as either a clarification/update or a modification to permit requirements. The table also lists the location of each change in the final permit.

Changes to Clarify or Update the Permit	Summary of Permit Change	Affected Part(s)
	Clarified a Notice of Intent (NOI) must be accepted by the Department before authorization to discharge is approved or changed.	1.A, 1.C.4
	Reorganized to clarify activities requiring permit coverage and allowable discharges.	1.A.1, 1.B
	Clarified that all forms related to CGP coverage are submitted electronically through the Department's website.	1.C
	Removed references to electronic forms to avoid implying that other submission methods are accepted.	1.C.1, 1.C.4, 1.C.8, 1.C.9
	Clarified the NOI must be electronically signed by the owner/operator.	1.C.1
	Updated URL to access Electronic Notice of Intent System	1.C, 1.C.1
	Modified language regarding the Notice of Termination (NOT) submissions for consistency.	1.C.1
	Included a table to clarify NOI submission deadlines and permit authorization dates	1.C.2
	Included a reference to clarify the conditions that must be verified before a NOT may be submitted.	1.C.6
	Clarified the NOI and approved Sediment and Stormwater Management Plan must be maintained at the construction site until permit coverage is terminated.	1.C.11
	Added language regarding the width of the natural buffer used for perimeter for consistency.	1.D.1.1
	Clarified that dust must be minimized site-wide, not on areas of exposed soil to align with the DSSR.	1.D.1.6
	Modified language regarding soil stabilization to be consistent with the Sediment and Stormwater Regulations to align with the DSSR.	1.D.2c
	Updated the Department Section responsible for issuing dewatering permits.	1.D.3
	Clarified that all dewatering activities must be reviewed and have an approved non-erosive discharge point it.	1.D.3
	Removed repetitive language.	1.C.8, 1.D.1, 1.D.1.11, 1.D.5d

Summary of Permit Change	Affected Part(s)
Changes to Modify the permit	Removed language specifying that inlet protections must only be provided for those inlets that carry stormwater flow from the site to align with the DSSR.
	Added language clarifying that run-off volume must be calculated from bare earth conditions to align with the DSSR.
	Added language specifying regarding dewatering discharges to waters of the State.
	Reorganized and modified language to better align pollution prevention measures with the federal CGP:
	· Removed material inventory requirement
	· Removed good housekeeping section, reorganizing storage, labeling, and disposal requirements.
	· Clarified that wash water with soaps, solvents, and detergents cannot be discharged.
	· Specified storage requirement for soaps, solvents, and detergents.
	· Specified an exception for minimizing exposure for certain products.
	· Specified disposal restrictions for liquid wastes.
	· Specified that waste containers are not required for the waste remnant of certain, non-polluting building and construction materials or products.
	· Clarified practices for managing pesticides, herbicides, fertilizers, and landscape materials.
	Modifies the dumpster emptying schedule from twice a week to when the dumpster reached 80% capacity.
	Adding a definition for "dewatering" to better align with the federal CGP.
	Specified that failure to comply with terms of the CGP can result in denial of additional permits.
	Removed reference to permit transfer exception to avoid implying that transfers are allowed.

The following is a detailed summary of the changes included in the final permit.

1. Changes to Clarify or Update the Permit

- *Notice of Intent (NOI) must be accepted by the Department before authorization to discharge is approved or changed* – DNREC clarified that submission of a Notice of Intent (NOI) alone does not authorize discharge under the CGP, that the NOI must be approved and accepted. Upon acceptance, an NOI number is assigned to the activity and the permit owner/operator the owner/operator is sent an email confirming NOI acceptance, including the NOI number.
- *Activities requiring permit coverage and allowable discharges* – Language was reorganized and modified for clarification, resulting in the addition of an “Applicability” section to clarify that all activities resulting in one or more acres of land disturbance requires CGP

coverage and an indication that allowable construction water discharges must be uncontaminated, which is in line the 2022 EPA CGP, as modified.

- *All forms related to CGP coverage are submitted electronically through the Department's website* – DNREC added language to clarify that all CGP notices are submitted and managed electronically. All submissions were converted from paper to electronic with the implementation of the 2021 CGP and sections relating to the management of the CGP notices – the NOI, the Notice of Shared Operational Control, and the Notice of Termination (NOT), referred to electronic versions of forms. The added language preceding these sections clarifies the submission and management of the related notices.
- *References to electronic forms* – Building on the previous clarification, references to electronic forms (i.e. eNOI and eNOT) were removed to avoid implying that other submission methods are accepted.
- *Electronic signatures* – DNREC clarified that NOIs must be electronically signed prior to acceptance. The electronic signature process was established prior to the implementation of the 2021 CGP to comply with the authentication and identity-proofing standards set forth at 40 CFR § 3.2000(b) for electronic reports. Input from DNREC staff responsible for the NOI management system indicated that persons other than the owner/operator were attempting to sign notices, and that notices were not being signed preventing acceptance by DNREC.
- *URL to access Electronic Notice of Intent System* – since the issuance of the 2021 CGP, the Delaware Department of Information and Technology modified the server that supports the Electronic Notice of Intent System. This change resulted in a change to the URL which is provided.
- *Submission of the NOT* – DNREC modified the language regarding permit expiration for consistency with the other sections, indicating that NOTs are to be “submitted”, instead of “completed”.
- *NOI Submission Deadlines and Permit Coverage Dates* – DNREC included as table noting submission deadlines and permit authorization dates. All “owners”/ “operators”, as defined in Part 1.G of the NPDES CGP, associated with a construction site who meet eligibility conditions, and who seek coverage under this permit, must submit to DNREC a complete and accurate NOI in accordance with the deadlines on Table 1 prior to sediment and stormwater plan approval and/or the commencement of construction, depending on the Type of Operator.
- *Site condition verification prior to NOT submission and acceptance* – DNREC staff responsible for the NOI indicated NOTs are frequently submitted before the conditions for termination are met or have been verified and, therefore, cannot be accepted. This has created confusion for owner/operators, particularly when renewal fees are due. The update clarifies that, before an NOT is submitted and accepted, the plan approval agency must verify that the site meets the conditions necessary to terminate coverage stated in art 1.F.2 and in accordance with Section 6 of the DSSR:
 - a) All items and conditions of the Plan have been satisfied in accordance with 7 DE Admin. Code 5101 Sediment and Stormwater Regulations,

- b) Post construction verification documents (PCVD) demonstrate that the permanent stormwater management measures have been constructed in accordance with the approved Plan and the 7 DE Admin. Code 5101 Sediment and Stormwater Regulations, and

- c) Final stabilization, as defined in Part 1.G, has been achieved.

Upon verification of these conditions, the plan approval agency will direct the owner/operator to submit the NOT for acceptance.

- *Maintaining Documents On-Site* – Clarified that the NOI and the approved Sediment and Stormwater Management Plan are to be maintained on site until the permit is terminated. Providing electronic access to a current, approved sediment and stormwater management plan, such as through a posted QR code, is acceptable.
- *Natural Buffer Width* – clarified that the undisturbed natural buffer must be at least fifty (50) ft, for consistency within the section.
- *Dust Minimization* – as dust can be generated in areas other than those where soil is exposed due to tracking, stock piling, and other construction site operations, this section is modified to clarify that all dust must be minimized, not just that due to areas of exposed soil in accordance with subsection 4.4 of the DSSR.
- *Soil Stabilization* – DNREC clarified the timeframe within which disturbed areas are to be stabilized in accordance with subsection 4.5.1 of the DSSR.
- *Obtaining Dewatering Permits* – The name of the program responsible for issuing dewatering permits was updated due to a change resulting from departmental reorganization.
- *Dewatering Activities* – language was clarified to ensure all dewatering activities, whether or not require a Dewatering Permit, must be reviewed by DNREC or Delegated Agency's construction reviewer and have a non-erosive discharge point approved, before dewatering operations begin.

2) Changes to Modify the Permit

- *Inlet Protections* – The Erosion and Sediment Control Handbook, effective January 2026, requires inlet protections in areas where the drainage area is disturbed. CGP language was modified to state that inlet protections are required on all inlets receiving runoff from disturbed area that have not achieved final stabilization to align with the current ESC Handbook.
- *Designing a sediment basin or similar impoundment* – Subsection 4.4.2.1 of DSSR requires the design of a sediment basin must be designed with run-off calculations from bare earth conditions when disturbances are greater than 20 acres. Language was added to clarify the condition to be used when generating runoff calculations to align with the DSSR.
- *Dewatering requirements* – Language was added to provide examples of controls to be used to minimize the discharge of pollutants from dewatering activities, and a minimum 50-ft undisturbed vegetated buffer for discharges from a dewatering bag prior to discharge into waters of the State.

- *Reorganization and Modification of Section D.4, Pollution Prevention* – The language in this section was reorganized and modified to better align with pollution prevention measures, as presented in the federal CGP. While the practices were similar, measures were revised or deleted to support this change. The changes include:
 - a) Removal of the “Material Inventory” and “Good Housekeeping” sections. The current requirements to document the storage and use of certain materials was intended as a means of demonstrating compliance with pollution prevention practices. However, greater environmental protection is achieved through proper storage and labeling of materials. Proper storage, labeling, and disposal are addressed in the reorganized sections of Part 1.D.4.
 - b) Provided language to provide clarify storage requirement for soaps, solvents, and detergents to minimize exposure and that discharge of these and other liquids wastes is prohibited.
 - c) Building and waste management – Practices for managing building materials and waste and construction and domestic wastes were modified in part to better align with the federal CGP but also in response to feedback received from the regulated community. The resulting changes provide flexibility for compliance with minimizing exposure of waste to precipitation, stormwater, and wind, which applies to building materials and products and certain types of construction wastes. Waste containers are not required for the waste remnant or unused portions of any construction materials or final products where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination, provided that these wastes are stored separately from other construction or domestic wastes that do not meet these criteria.
 - d) As pesticides, herbicides, insecticides, fertilizers, and landscape materials are commonly used on construction sites, language was provided to ensure these products are properly labeled, provided cover, and applied in accordance with state and federal laws to minimize the exposure and the risk of a polluted discharge
- *Dumpster Emptying Frequency* – The frequency at which dumpsters are to be emptied was modified after receiving input from the regulated community. The frequency was changed from emptying the dumpsters a minimum of two times a week to emptying the dumpsters when they have reached 80% compacity by volume. This allows for flexibility to adjust to variable levels of waste producing construction activities on the site.
- *Added Definition* – to improve consistency, the following definition for “dewatering” was adopted from the Federal CGP. Dewatering means “the act of draining accumulated stormwater and/or ground water from building foundations, vaults, and trenches, or other similar points of accumulation. Examples can include, but are not limited to:
 - a) Surface area dewatering: water pumped from disturbed surface areas (e.g., trenches, sumps, excavation pits, or other excavations associated with construction where sediment-laden ground water or surface water/storm inflow must be removed) or from sediment basins or similar impoundments for maintenance or decommissioning purposes.

b) Ground water dewatering: water discharged from well development, well pump tests, or pumping of ground water from a construction area.”

Common methods of ground water dewatering from a construction area include sumps and wells, generally described as follows:

- Sumps: lowers ground water levels near the construction area. Dewatering using sumps consists of pumping ground water out of a lower collection point(s) typically gravity-fed by local ground water.
- Wells: drilled wells, including bored/augured, driven, or jetted, which use vacuum or pumping to lower the ground water at greater depths than sumps. The two most common types of wells used for dewatering ground water are:
 - Wellpoints: small-diameter shallow wells which are connected via a header pipe. A pump creates a vacuum in the header pipe.
 - Deep Wells: larger-diameter holes, drilled relatively deep (typically greater than 20 feet), pumped by submersible electric pumps.
- *Restricting issuance of new permit coverage* – language was added providing enhanced enforcement providing DNREC with the ability to deny the approval of additional permits to persons, owners, or operators who fail to comply with CGP conditions.
- *Permit Transfers* – Language referring to an exception to permit transfers was removed to avoid implying permit transfers are allowed.

Eligibility Conditions for Coverage under the DE CGP

Operator(s) who have control of permitted activities on the construction site are eligible for coverage under this CGP. Control of permitted activities can include, but is not limited to, authority to direct those working on the site to take actions to comply with the CGP, correct violations including the repair or installation of erosion and sediment controls, and/or halt construction activity until violations of the CGP are corrected.

The CGP covers all areas of the State of Delaware except for Federal facilities that are authorized by EPA that must seek coverage under the EPA CGP. The CGP covers those construction sites that engage in clearing, grading, and excavating activities that will result in land disturbance equal to or greater than one (1.0) acre. This also includes construction sites where the disturbance of less than one (1.0) acre of land occurs but is part of a larger common plan of development or sale which will ultimately disturb more than one (1.0) acre.

The construction site must function under an approved Sediment and Stormwater Management Plan designed by a Licensed Professional in the State of Delaware. To satisfy Delaware Sediment and Stormwater Regulations (DSSR), each construction site must have Responsible Personnel on- site at least daily who have successfully completed the Contractor Training Program sponsored by the Department's Sediment and Stormwater Program.

Discharges from support activities and certain non-stormwater discharges are covered under the CGP in accordance with Part 1.B.1 and Part 1.B.2 of the CGP, respectively. The CGP also identifies prohibited discharges that are not covered under the permit as detailed in Part 1.B.3.

Notice of Intent (NOI)

Hardcopy submissions of NOIs and NOTs are no longer accepted by the Department as of January 1, 2019. All NOIs for CGP coverage must be completed and submitted electronically on the electronic Notice of Intent (NOI) database located on the Department's Sediment and Stormwater Program website. Upon Department acceptance of the NOI, a NPDES Permit Identification Number will be assigned to the project submitted. All NOIs submitted for coverage under the CGP will be subject to an annual renewal fee for as long as permit coverage is active. A sign or other notice of permit coverage must be posted at a safe, publicly accessible location in close proximity to the construction site. 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 be in large enough font to be viewed readily from a public right-of-way. If the construction site is not visible from a public road, then the posting of permit coverage must be in a position that is visible from the nearest public road and as close as possible to the construction site. Minimum requirements for posting a notice of permit coverage are detailed in Part 1.C.11 of the CGP.

Notice of Termination (NOT)

Once the construction activity is complete as defined in the permit at Part 1.F.2 and is verified by the appropriate approval agency, a NOT can be submitted to the Department to terminate CGP coverage and cease the annual renewal fee.

For existing projects that have met the project closeout requirements of the Sediment and Stormwater Program, an electronic Notice of Termination (eNOT) must be filed. The eNOT form is accessible through the eNOI database located on the Department's Sediment and Stormwater Program webpage.

Shared Operational Control (Co-Permittee Status)

For the purposes of this CGP and in the context of stormwater discharges from construction activity, an operator is any party associated with a construction project that meets either of the following two (2) 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.

It is the Department's interpretation based upon EPA's definition of "Operator" that construction activities at a permitted site may become the responsibility of multiple operators when more than one (1) operator has shared operational control of the site. When multiple operators maintain shared operational control, all are considered Co-Permittees of the site and must file an eNOI as a Co-Permittee. It is the original permittee's responsibility to familiarize the subsequent Co-Permittees with the program, ensure that proper training has been obtained, and provide a copy of the approved Sediment and Stormwater Management Plan.

Effluent Limitations

All stormwater discharges from construction activities must meet and achieve the Federal Effluent Limitations in accordance with 40 CFR 450.21. Achievement of these effluent limitations shall be attained by the permittee by selecting, installing, implementing, and maintaining Best Management Practices (BMPs) approved in the DSSR and regulatory guidance documents that utilize the Best Available Technology (BAT) for erosion and sediment control and stormwater management.

The EPA has already established limitations, known as effluent limitation guidelines (ELGs), for some permitted industrial categories. In the case of construction related stormwater discharges, the EPA has not established numeric effluent limitations. In the case where there are no ELGs, the permit writer is to use best professional judgement to establish requirements that the discharger must meet using BAT. This CGP contains only narrative effluent limitations and does not contain numeric effluent limitations.

Part D of the CGP identifies applicable Federal Effluent Limitations in accordance with 40 CFR 450.21 as well as specific requirements of the permittee to minimize pollutants in the permitted discharge in order to meet applicable water quality standards.

The Department expects that compliance with the conditions of the CGP will result in stormwater discharges being controlled to meet applicable water quality standards. The Department may insist on the installation of additional controls, in order to meet water quality-based effluent limitations, on a site-specific basis, if discharges are not adequately controlled to meet applicable water quality standards. This includes situations where additional controls are necessary to comply with a waste load allocation in an EPA established or approved Total Maximum Daily Load (TMDL). The Department reserves the right to require the discharger to apply for and obtain an individual permit if discharges are not able to meet applicable water quality standards after additional controls have been installed.

Sediment and Stormwater Management Plan (Plan)

The owner of the project is responsible to have a Delaware Licensed Professional design a Sediment and Stormwater Management Plan (Plan) for the construction site which is reviewed and approved by an appropriate approval agency that has been delegated authority to administer

the DSSR. The owner is responsible to ensure the active construction site has an approved Plan on- site at all times. Pollution Prevention Measures in accordance with the Delaware Erosion and Sediment Control (ESC) Handbook standard and specifications for Construction Site Waste Management and Spill Control are incorporated into the Plan for construction activity. The approved Plan is equivalent to the Stormwater Pollution Prevention Plan (SWPPP) required by the EPA CGP.

Plans are valid for five (5) years from the stamped approval date issued by the appropriate plan approval agency. The Plan will remain valid for five (5) years following the date of approval which may not necessarily coincide with the expiration date of the CGP. If construction activities continue beyond the original five (5) year approval timeframe, the Plan may be extended by the appropriate plan approval agency. Unless the Plan is extended, it is considered expired and any construction activity that occurs after the expiration date is in violation. The Plan must be approved and the eNOI accepted by the Department prior to the onset of construction activity at the site for which CGP coverage is granted.

During active construction, the most recent approved Plan must be on-site at all times.

Monitoring of the Construction Site

The permittee must conduct certain visual monitoring activities in accordance with the CGP. The construction site review requirements of the DSSR may fulfill some or all of the visual monitoring requirements of the CGP. The weekly construction site reviews must be conducted by Responsible Personnel or a Certified Construction Reviewer (CCR) that has successfully completed a Department sponsored certification course. The permittee is responsible for ensuring the qualifications of the person(s) conducting the weekly construction reviews.

Construction site reviews must be conducted at least once every seven (7) calendar days. Part 1.E.6.3 and E.6.4 in the CGP detail the areas that must be reviewed as well as the requirements for the construction site reviews.

Delaware has elected the option to conduct construction site reviews at least once every seven (7) calendar days in lieu of once every 14 calendar days and within 24 hours of the occurrence of a storm event of 0.25 inches or greater. The construction site review frequency of every seven (7) calendar days is consistent with the requirements for CCR reporting for those sites required to employ a CCR.

Recordkeeping

Retention time for all records required by the CGP is a minimum of three (3) years following the Department's acceptance of the NOT. Permittees subject to this CGP also shall maintain all inspection reports, notices of violations, enforcement actions, and correspondence issued by

the Department, its authorized agents, the appropriate approval agency, or a CCR for a minimum of 3 years from acceptance of the NOT.

During construction, the operator(s) must maintain at the site, written reports of all inspections conducted in accordance with the minimum elements detailed in Part 1.E.2 of the CGP.

Corrective Actions & Deadlines

Corrective action measures must be taken and corrected in accordance with the requirements detailed in Parts 1.E.7 of the CGP.

Effective Date of CGP Coverage

Coverage under the CGP is initiated for a construction site once the eNOI has been submitted and accepted by the Department and a Sediment and Stormwater Management Plan has been approved by the appropriate approval agency.

Coverage under the CGP continues until a NOT has been submitted to the Department and it is determined by the Department or appropriate plan approval agency that all items and conditions of the Plan have been satisfied in accordance with the Sediment and Stormwater Regulations, all post construction verification documentation has been submitted to the appropriate plan approval agency, and all final stabilization criteria has been achieved.

Special Conditions

Special Conditions in National Pollutant Discharge Elimination System (NPDES) permits require sites to undertake activities designed to reduce the overall quantity of pollutants being discharged to Waters of the State. Special Conditions address unique situations and incorporate preventative requirements to reduce the potential for discharge of pollutants.

The Federal CGP recognizes some areas of the country may be subject to periods of very low rainfall, thus allows for a Low Erosivity Waiver if it can be shown that the proposed construction activity will occur solely within that period. Delaware has done an analysis and determined that, as a humid region, the applicable period of low erosivity is so short that a typical project would not be able to meet the conditions. Thus, Delaware has elected not to offer the Low Erosivity Waiver as an option.

There are currently no special conditions applicable with this CGP.

Public Notice and Process for Reaching a Final Decision

The public notice of the Department's proposed CGP as outlined herein was published in the Wilmington News Journal, Delaware State News, and Bay to Bay News on December 1, 2025.

Interested parties were invited to submit their written views on the permit. All comments received by the close of business on December 31, 2025, have been considered by the Department in preparing the final permit.

A summary of comments received and the resultant modifications to the CGP language are as follows:

- 1) Part 1.D.1.8a contained language requiring inlet protection on all storm drain inlets within the permitted area, rather than limiting the requirement to inlets that receive runoff from disturbed portions of the project. The ESC Handbook specifies that inlet protection is required for storm drain inlets receiving runoff from disturbed areas. In response, Part 1.D.1.8a was revised to clarify that inlet protection must be installed on any storm drain inlet that receives stormwater runoff from areas of the site that have been disturbed and have not achieved final stabilization.
- 2) Part 1.D.3 included language addressing the control of discharges from dewatering activities through the use of approved, non-erosive points of discharge. As originally written, the provision was interpreted as requiring dewatering permits for activities that do not meet the permitting threshold. In response, the section was revised to clarify that approval of non-erosive points of discharge is required prior to initiating any dewatering activity, regardless of whether the activity requires a permit.

In addition, comments were received that were considered but did not result in changes to the permit language.

- 1) A comment was received requesting the inclusion of clear and concise numeric requirements for the maintenance of inlet protections. While the SSP acknowledges that more prescriptive direction could improve clarity, establishing numeric maintenance thresholds within the SSP would conflict with the ESC Handbook, which serves as the regulatory guidance document under the Delaware Sediment and Stormwater Regulations. Accordingly, this comment has been noted for consideration and will be addressed in a future update of the ESC Handbook.
- 2) A comment was received requesting the ability for permittees to submit renewal fees in bulk rather than through individual checks. Existing payment procedures already provide this flexibility. Online payment options allow multiple permit renewal invoices to be paid within a single transaction. In addition, payments submitted by check may include multiple permit renewal fees, provided that all applicable invoice numbers are clearly identified with the submittal.
- 3) A comment was received requesting clarification that determinations made under Part 1.D.5 are intended solely to serve as a trigger for corrective actions pursuant to Part 1.E.7.1. The requested modification could be interpreted as constraining the Program's authority to escalate enforcement actions when warranted by site conditions. The existing language sufficiently identifies the circumstances under which corrective actions are required and appropriately reflects the intent of the Program without limiting its enforcement discretion.

The final CGP are published in the General Notices section of the Delaware Register of Regulations on February 1, 2026. The 2026 CGP has an effective date of March 11, 2026 to coincide with the expiration date of the 2021 NPDES CGP.

Department Contact for Additional Information

Ashley Barnett, Environmental Program Manager II
Sediment and Stormwater Program, Division of Watershed Stewardship Department of Natural Resources and Environmental Control
285 Beiser Blvd, Suite 102, Dover, DE 19904
Telephone: (302) 608-5458
Email: ashley.barnett@delaware.gov