Policy 27

QUALIFIED LOCAL PROGRAM CONSTRUCTION GENERAL PERMIT

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SECTION 1 COVERAGE UNDER THIS GENERAL POLICY

1.1 POLICY AREA

This construction general permit (CGP) covers all areas of the City of Knoxville.

1.2 DISCHARGES COVERED BY THIS POLICY

1.2.1 Stormwater discharges associated with construction activities

This policy authorizes point source discharges of stormwater from construction activities that result in soil disturbances of one or more acres. Soil disturbances of less than one acre are required to obtain authorization under this policy if construction activities are part of a larger common plan of development or sale that comprises at least one acre of cumulative land disturbance. Construction activities include clearing, grading, filling and excavating. One or more site operators must maintain coverage under this policy for all portions of a site that have not been permanently stabilized.

Projects of less than one acre of total land disturbance may also be required to obtain authorization under this policy if:

a) the director has determined that the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;

b) the director has determined that the stormwater discharge is, or is likely to be, a significant contributor of pollutants to waters of the state, or

c) changes in state or federal rules require sites of less than one acre that are not part of a larger common plan of development or sale to obtain a stormwater permit.

Any discharge of stormwater, or other fluid, to an improved sinkhole or injection well must be authorized by policy or rule as a Class V underground injection well under the provisions of Tennessee Rules, Chapter 0400-45-06.

1.2.2 Stormwater discharges associated with construction support activities

This policy also authorizes stormwater discharges from support activities associated with a permitted construction site (Support activities may include concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, and borrow areas). Support activities are authorized provided all of the following are met:

a) The support activity is related to a construction site that is covered under this general permit.

b) The operator of the support activity is the same as the operator of the construction site.

c) The support activity is not a commercial operation serving multiple unrelated construction projects by different operators.

d) The support activity does not operate beyond the completion of the construction activity of the last construction project it supports.
e) Support activities are identified in the Notice of Intent (NOI) and the Stormwater Pollution Prevention Plan (SWPPP). The appropriate erosion prevention and sediment controls and measures applicable to the support activity shall be described in a comprehensive SWPPP covering the discharges from the support activity areas.

Stormwater discharges associated with support activities that have been issued a separate individual permit or an alternative general permit are not authorized by this general permit. This policy does not authorize any process wastewater discharges from support activities. Process wastewater discharges from support activities must be authorized by an individual permit or other appropriate general permit.

1.2.3 Non-stormwater discharges authorized by this policy

The following non-stormwater discharges from active construction sites are authorized by this policy provided the non-stormwater component of the discharge is in compliance with Subsection 3.5.9 (Pollution prevention measures for non-stormwater discharges):

a) Dewatering of collected stormwater and ground water.

b) Waters used to wash dust and soil from vehicles where detergents are not used and detention and/or filtering is provided before the water leaves site. Wash removal of process materials such as oil, asphalt or concrete is not authorized.

c) Water used to control dust in accordance with Subsection 3.5.5 (Other items needing control).

d) Potable water sources including waterline flushings, from which chlorine has been removed to the maximum extent practicable.

e) Routine external building washdown that does not use detergents or other chemicals.

f) Uncontaminated groundwater or spring water.

g) Foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

All non-stormwater discharges authorized by this policy must be free of sediment and other solids, must not cause erosion of soils, and must not result in sediment impacts to the receiving streams.

1.2.4 Other NPDES-permitted discharges

Discharges of stormwater or wastewater authorized by and in compliance with a different National Pollutant Discharge Elimination System (NPDES) permit may be mixed with discharges authorized by this permit.

1.3 LIMITATIONS ON COVERAGE

Except for discharges from support activities, as described in Subsection 1.2.2 (Stormwater discharges associated with construction support activities) and non-stormwater discharges listed in Subsection 1.2.3 (Non-stormwater discharges authorized by this policy), all discharges covered by this policy shall be composed entirely of stormwater. This policy does not authorize the following discharges:
a) Post-construction discharges (Permanent Stormwater Management) - Stormwater discharges associated permanent stormwater management structures after construction activities have been completed, the site has undergone final stabilization and the coverage under this permit has been terminated.

b) Discharges mixed with non-stormwater - Discharges that are mixed with sources of non-stormwater, other than discharges which are identified in Subsection 1.2.4 (Other NPDES-permitted discharges), and in compliance with Subsection 3.5.9 (Pollution prevention measures for non-stormwater discharges) of this permit.

c) Discharges covered by another permit - Discharges associated with construction activities that have been issued an individual permit in accordance with Subsection 7.12 (Individual Permit).

d) Discharges threatening water quality - Discharges from construction sites, that the director determines will cause, or has the reasonable potential to cause, or contribute to, violations of water quality standards. Where such a determination has been made, the department will notify discharger in writing that an individual permit application is necessary as described in Subsection 7.12 (Individual Permit). The department may authorize coverage under this policy after appropriate controls and implementation procedures have been included in the SWPPP that are designed to bring the discharge into compliance with water quality standards.

e) Discharges into waters with unavailable parameters (impaired) streams – Discharges to waters with unavailable parameters that would cause measurable degradation of water quality for the parameter that is unavailable; or that would cause additional loadings of unavailable parameters that are bioaccumulative or that have criteria below method detection levels. Waters with unavailable parameters means any segment of surface waters that has been identified by the department as failing to support its designated classified uses. A discharge that complies with the additional requirements set forth in Subsection 5.4 is not considered to cause measurable degradation of waters with unavailable parameters, unless the department determines upon review of the SWPPP that there is a reason to limit coverage as set forth in Subsection 1.3(d) and the SWPPP cannot be modified to bring the site into compliance.

f) Discharges into Outstanding National Resource Waters – Discharges into waters that designated by the Water Quality Control Board Outstanding National Resource Waters (ONRWs) pursuant to Tennessee Rules, Chapter 0400-40-03-.06(5).

g) Discharges into Exceptional Tennessee Waters - Discharges that would cause more than de minimis degradation of water quality for any available parameter in waters designated by TDEC as Exceptional Tennessee. A discharge that complies with the additional requirements set forth in Subsection 5.4 is not considered to cause more than de minimis degradation of available parameters unless the department determines upon review of the SWPP that there is a reason to limit coverage as set forth in Subsection 1.3(d) and the SWPPP cannot be modified to bring the site into compliance.

h) Discharges not protective of aquatic threatened and endangered, species deemed in need of management or special concern species - Discharges or discharge-related activities that are likely to jeopardize the continued existence of listed or proposed threatened or endangered aquatic species, or their critical habitat, under the Endangered Species Act (ESA), or other applicable state law or rule. Discharges or conducting discharge related activities that will cause a prohibited take of federally listed aquatic species (as defined under Section 3 of the ESA and 50 CFR §17.3),
unless such take is authorized under Sections 7 or 10 of the ESA. Discharges or conducting discharge-related activities that will cause a prohibited “take” of state listed aquatic species (as defined in the Tennessee Wildlife Resources Commission Proclamation, Endangered or Threatened Aquatic Species, and in the Tennessee Wildlife Resources Commission Proclamation, Wildlife in Need of Management), unless such take is authorized under the provisions of T.C.A. § 70-8-106(e).

i) Discharges from a new or proposed mining operation - Discharges from a new or proposed mining operation are not authorized.

j) Discharges negatively affecting a property on the National Historic Register – Discharges that would negatively affect a property that is listed or is eligible for listing in the National Historic Register maintained by the Secretary of Interior.

k) Discharges into waters with approved Total Maximum Daily Load - Discharges a pollutant to waters for which there is an EPA-approved or established total maximum daily load (TMDL) for that pollutant, unless the SWPPP incorporates measures or controls consistent with the assumptions and requirements of the TMDL. If a specific wasteload allocation has been established, that would apply to the discharge, that allocation must be incorporated into the SWPPP and steps necessary to meet that allocation must be implemented. If an EPA-approved or established TMDL has specified a general wasteload allocation applicable to construction stormwater discharges, but no specific requirements for construction sites have been identified, the permittee should consult with the department to confirm that adherence to a SWPPP that meets the requirements of this permit will be consistent with the approved TMDL. Where an EPA approved or established TMDL has not specified a wasteload allocation applicable to construction stormwater discharges, but has not specifically excluded these discharges, adherence to a SWPPP that meets the requirements of the CGP will be assumed to be consistent with the approved TMDL. If the EPA-approved or established TMDL specifically precludes construction stormwater discharges, the operator is not eligible for coverage under the CGP.

1.4 OBTAINING POLICY COVERAGE

A complete NOI, SWPPP and application fee are required to obtain coverage under this general permit. Requesting coverage under this permit means that an applicant has examined a copy of this permit and thereby acknowledged the applicant’s claim of ability to comply with permit terms and conditions. Upon completing NOI/SWPPP review, the department will:

a) issue a NOC to the operator identified as the initial site-wide primary permittee on the NOI form (see Subsection 1.5 (Effective Date of Coverage)),

b) notify the applicant of needed changes to their NOI submittal (see Subsection 2.6.3 (Application completeness)), or

c) deny coverage under this general permit (see Subsection 7.12 (Individual Permit)).

1.4.1 Notice of Intent

Operators wishing to obtain coverage under this policy must submit a complete NOI in accordance with Section 2, using the NOI form provided in Appendix A of this policy. The department will review NOIs for completeness and accuracy and, when deemed necessary, investigate the proposed project for potential impacts to the waters of the state.
1.4.2 Stormwater Pollution Prevention Plan (SWPPP)

Operators wishing to obtain coverage under this policy must submit a site-specific SWPPP with the NOI. The SWPPP, developed and submitted by the site-wide permittee (typically the owner/developer who applies for coverage prior to project commencement), should address all construction-related activities from the date construction commences to the date of termination of permit coverage, to the maximum extent practicable. The SWPPP must address the total acreage planned to be disturbed (see definition for “disturbed area” in Section 10), including any associated construction support activities (see Subsection 1.2.2). The SWPPP must be developed, implemented and updated according to the requirements in Section 3 (SWPPP Requirements) and Subsection 2.3 (Responsibilities of Operators). The SWPPP must be implemented prior to commencement of construction activities.

If the initial SWPPP does not address all activities until final stabilization of the site, an updated SWPPP or addendums to the plan addressing all aspects of current site disturbance must be prepared. An active, updated SWPPP must be in place for all disturbed portions of a site until each portion has been completed and permanently stabilized.

Preparation and implementation of the SWPPP may be a cooperative effort with all operators at a site. New operators with design and operational control of their portion of the construction site are expected to adopt, modify, update and implement the comprehensive SWPPP. Primary permittees at the site may develop a SWPPP addressing only their portion of the project, as long as the proposed Best Management Practices (BMPs) are compatible with the comprehensive SWPPP and complying with conditions of this general permit.

1.4.3 Permit application fee

The permit application fee should accompany the applicant’s NOI form. The fee is based on the total acreage planned to be disturbed (see definition of “disturbed area” in Section 10) by an entire construction project for which the applicant is requesting coverage, including any associated construction support activities (see Subsection 1.2.2). The applicant may present documentation of common areas in the project that will not be subject to disturbance at any time during the life of the project and have these areas excluded from the fee calculation.

The application fees shall be as specified in the Stormwater and Street Ordinance. The application will be deemed incomplete until the appropriate application fee is paid in full. Checks for the appropriate fee should be made payable to “City of Knoxville.” There is no additional fee for subsequent owner/operator to obtain permit coverage (see Subsection 2.4.3), as long as the site-wide primary permittee has active permit coverage at the time of receipt of the subsequent operator’s application, because the site-wide primary permittee paid the appropriate fee for the entire area of site disturbance. If a project was previously permitted, but permit coverage was terminated (see Subsection 8.1.1 (Termination process for primary permittees)), and subsequent site disturbance or re-development occurs, the new operator must obtain coverage and pay the appropriate fee for the disturbed acreage.
1.5 EFFECTIVE DATE OF COVERAGE

1.5.1 Notice of Coverage

The NOC is a notice from the department to the initial site-wide primary permittee informing the applicant that the NOI, the SWPPP, and the application fee were received and accepted, and stormwater discharges from a specified area of a construction activity have been approved under this general permit. The initial site-wide primary permittee is authorized to discharge stormwater associated with construction activity as of the effective date listed on the NOC.

Assigning a permit tracking number by the department to a proposed discharge from a construction site does not confirm or imply an authorization to discharge under this permit. The department reserves the right to deny coverage to artificial entities (e.g., corporations or partnerships, excluding entities not required to register with the Tennessee Secretary of State) that are not properly registered and in good standing (i.e., listed with an entity status of “active”) with the Tennessee Secretary of State, Division of Business Services. The department also reserves the right to issue permit coverage in the correct legal name of the individual or entity seeking coverage, including each general partner of a general partnership in addition to the general partnership.

Correspondence with the permittee is maintained through the Site Owner or Developer listed in the NOI: not the optional contact or the secondary permittee.

If an Aquatic Resource Alteration Permit (ARAP) is required for a site proposed for active construction, the NOC will not be issued until an ARAP application is submitted and deemed by the City of Knoxville to be complete. The treatment and disposal of wastewater (e.g., sanitary wastewater) generated during and after the construction must be also addressed prior to the issuance of the NOC. The NOC may be delayed until adequate wastewater treatment and accompanying permits are issued.

1.5.2 Permit tracking numbers

Construction sites covered under this permit will be assigned permit tracking numbers in the sequence TNQ030001, TNQ030002, etc. An operator presently permitted under a previous construction general permit shall be granted coverage under this new general permit. Permit tracking numbers assigned under a previous construction general permit will be retained (see Subsection 2.4.1 (Existing site)). An operator receiving new permit coverage will be assigned a new permit tracking number (see Subsection 2.4.2 (New site or new phases of existing sites)).
SECTION 2  NOTICES OF INTENT (NOI) REQUIREMENTS

2.1  WHO MUST SUBMIT AN NOI?

All site operators must submit an NOI form. “Operator” for the purpose of this policy and in the context of stormwater associated with construction activity means any person associated with a construction project who meets either or both of the following two criteria:

a) The person has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project (e.g. subsequent builder), or the person who is the current owner of the construction site. This person is considered the primary permittee.

b) The person has day-to-day operational control of the activities necessary to ensure compliance with the SWPPP or other permit conditions. This person is typically a contractor or a commercial builder who is hired by the primary permittee, and is considered a secondary permittee.

The site-wide permittee is the first primary permittee to apply for coverage at the site. There may be other primary permittees for a project, but there is only one site-wide permittee. Where there are multiple operators associated with the same project, all operators are required to obtain permit coverage. Once covered by a permit, all such operators are to be considered as co-permittees if their involvement in the construction activities affects the same project site, and are held jointly and severally responsible for complying with the permit.

2.2  CONSTRUCTION SITE OPERATORS

2.2.1  Owner/Developer

An owner or developer of a project is a primary permittee. This person has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person may include, but is not limited to, a developer, landowner, realtor, commercial builder, homebuilder, etc. and may be an individual, a corporate entity, or a governmental entity. An owner’s or developer’s responsibility to comply with requirements of this policy extends until permit coverage is terminated in accordance with requirements of Section 8 (Requirements for Termination of Coverage).

2.2.2  Commercial builders

A commercial builder can be a primary or secondary permittee at a construction site.

A commercial builder who purchases one or more lots from a site-wide permittee for the purpose of constructing and selling a structure (e.g., residential house, non-residential structure, commercial building, industrial facility); and has design or operational control over construction plans and specifications is a primary permittee for that portion of the site. A commercial builder may also be hired by an end user such as a lot owner who may not be a permittee. In either case, the commercial builder is considered a new operator and must submit a new NOI following requirements in Subsection 2.4.3 (New operator).

The commercial builder may also be hired by the primary permittee or a lot owner to build a structure. In this case, the commercial builder signs the primary permittee’s NOI and SWPPP as a contractor (see Subsection 2.2.3 (Contractors)) and is considered a secondary permittee.
2.2.3 Contractors

A contractor is considered a secondary permittee. This person has day-to-day operational control of the activities necessary to ensure compliance with the SWPPP or other permit conditions (e.g., the contractor is authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions).

A contractor may be: a general contractor, a grading contractor, an erosion control contractor, a subcontractor responsible for land disturbing activities or EPSC implementation and maintenance, or a commercial builder hired by the primary permittee. The contractor may need to include in their contract with the party that hired them specific details for the contractor’s responsibilities concerning EPSC measures. This includes the ability of the contractor to make EPSC modifications. The contractor should sign the NOI and SWPPP associated with the construction project at which they will be an operator.

2.3 RESPONSIBILITIES OF OPERATORS

A permittee may meet one or more of the operational control components in the definition of “operator” found in Subsection 2.1 (Who must submit an NOI?). Either Subsection 2.3.1 (Permittee(s) with design control (owner/developer)) or 2.3.2 (Permittee(s) with day-to-day operational control (contractor – secondary permittee)), or both, will apply depending on the type of operational control exerted by an individual permittee.

2.3.1 Permittees with design control

Permittees with design control (i.e., operational control over construction plans and specifications) at the construction site, including the ability to make modifications to those plans and specifications must:

a) ensure the project specifications they develop meet the minimum requirements of Section 3 (Stormwater Pollution Prevention Plan (SWPPP) Requirements) and all other applicable conditions;

b) ensure the SWPPP indicates the areas of the project where they have design control, and ensure all other permittees implementing and maintaining portions of the SWPPP impacted by any changes they make to the plan are notified of such modifications in a timely manner;

c) ensure that all common BMPs (i.e., sediment treatment basin and drainage structures) necessary for the prevention of erosion and control of sediment are maintained and effective until all construction is complete and all disturbed areas in the entire project are stabilized, unless permit coverage has been obtained and responsibility has been taken over by a new primary permittee; and

d) ensure that all operators on the site have permit coverage, if required, and are complying with the SWPPP.

If parties with day-to-day operational control of the construction site have not been identified at the time the comprehensive SWPPP is initially developed, the permittee with design control shall be considered to be the responsible person until a supplemental NOI is submitted identifying the new operators (see Subsection 2.4.3). These new operators (e.g., general contractor, utilities contractors, sub-contractors, erosion control contractors, hired commercial builders) are considered secondary permittees. The SWPPP must be updated to reflect the addition of new operators.
2.3.2 Permittees with day-to-day operational control (contractor – secondary permittee)

Permittees with day-to-day operational control of the activities necessary to ensure compliance with the SWPPP or other permit conditions must:

a) ensure the SWPPP for portions of the project where they are operators meets the minimum requirements of Section 3 (SWPPP Requirements) and identifies the parties responsible for implementing the of control measures identified in the plan;

b) ensure the SWPPP indicates areas of the project where they have operational control over day-to-day activities; and

c) ensure that measures in the SWPPP are adequate to prevent erosion and control any sediment that may result from their earth disturbing activity.

Permittees with operational control over only a portion of a larger construction project are responsible for compliance with all applicable terms and conditions of this policy as it relates to their activities on their portion of the construction site. This includes, but is not limited to, implementation of Best Management Practices (BMPs) and other controls required by the SWPPP. Permittees shall ensure either directly or through coordination with other permittees, that their activities do not render another person's pollution control ineffective. All permittees must implement their portions of a comprehensive SWPPP.

2.4 NOI SUBMITTAL

2.4.1 Existing site

An operator presently permitted under the 2011 construction general permit shall be granted coverage under this new general permit. There will be no additional fees associated with an extension of coverage for existing sites under the new permit. The department may, at its discretion, require permittees to confirm their intent to be covered under this new general permit following its effective date through submission of an updated NOI. If the confirmation is required but not received by the department, coverage under the new general permit will be terminated. If a site with terminated coverage is unstable or if construction continues, a new NOI, SWPPP and application fee must be submitted.

2.4.2 New site or New Phases of Existing Sites

Except as provided in Subsection 2.4.3 (New operators), operators must submit a complete NOI, SWPPP and an application fee in accordance with the requirements described in Subsection 1.4 (Obtaining Policy Coverage). The complete application should be submitted at least 30 days prior to commencement of construction activities. The permittee is authorized to discharge stormwater associated with construction activity as of the effective date listed on the NOC. The land disturbing activities shall not start until a NOC is prepared and written approval by the department staff is obtained according to Subsection 1.5 (Effective Date of Coverage).

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1 If the existing permittee is an artificial person (e.g., a partnership or corporation, excluding entities not required to register with the Tennessee Secretary of State), the department reserves the right to deny coverage under this new general permit if the permittee is not registered and in good standing (i.e., listed with an entity status of “active”) with the Tennessee Secretary of State, Division of Business Services. The department further reserves the right to convert permit coverage to the correct legal name of the permittee and to name each general partner of a general partnership in addition to the general partnership.
2.4.3 New operators

A supplemental NOI should be submitted as soon as practicable, before a new operator commences work at the site. The supplemental NOI must reference the project name and tracking number assigned to the primary permittee’s NOI.

If the site under the control of the new owner is inactive and all areas disturbed are completely stabilized, the NOI may not need to be submitted immediately upon assuming operational control. However, the department should be notified if a new operator obtains operational control at a site, but commencement of construction under the direction of the operator at the site is going to be delayed.

If the primary permittee’s company name has changed (but not the site ownership or authorized signators), an updated NOI should be submitted to the department within 30 days of the name change, along with documentation that the name change has been properly registered with the Tennessee Secretary of State, Division of Business Services. If the new operator agrees to comply with an existing comprehensive SWPPP already implemented at the site, a copy of the supplemental or modified SWPPP does not have to be submitted with the NOI.

If the transfer of ownership is due to foreclosure or a permittee filing for bankruptcy proceedings, the new owner (e.g., a lending institution) must obtain permit coverage if the property is inactive, but is not stabilized sufficiently. If the property is sufficiently stabilized, permit coverage may not be necessary unless, and until, construction activity at the site resumes.

2.4.4 Late NOIs

Dischargers are not prohibited from submitting late NOIs. When a late NOI is submitted, and if the department authorizes coverage under this permit, such authorization is only for future discharges. Any prior, unpermitted, discharges or policy noncompliance are subject to penalties as described in Subsection 7.1.2 (Penalties).

2.5 WHO MUST SIGN THE NOI?

All construction site operators as defined in Subsection 2.2 (Construction Site Operators) must sign the NOI form. Signatory requirements for a NOI are described in Subsection 7.7.1 (Signatory requirements for an NOI). All signatures must be original. An NOI that does not bear an original signature will be deemed incomplete. The department recommends that signatures be in blue ink.

2.6 NOI FORM

2.6.1 Contents of the NOI form

The NOI for construction projects shall be submitted on the form provided in Appendix A of this policy. This form and its instructions set forth the required content of the NOI. The NOI form must be filled in completely. If sections of the NOI are left blank, a narrative explaining the omission must be provided as an attachment.

Owners, developers and contractors that meet the definition of the operator in Subsection 2.2 (Construction Site Operators) shall apply for permit coverage on the same NOI, if possible. The department may accept separate NOI forms from different operators for the same construction site when warranted.
After permit coverage has been granted to the primary permittee, any subsequent NOI submittals must include the site’s previously assigned permit tracking number and the project name. The SWPPP shall be prepared in accordance Section 3 (SWPPP Requirements), and must be submitted with the NOI unless the NOI is only being submitted to add a secondary permittee to an existing coverage.

2.6.2 Construction site map

An excerpt (8 ½” by 11” or 11” by 17”) from the appropriate 7.5 minute United States Geological Survey (USGS) topographic map, with the proposed construction site centered, must be included with the NOI. The entire proposed construction area must be outlined in red on the map. The total acreage to be disturbed should be included on the map. All outfalls discharging runoff from the property should be identified. Streams receiving the discharge, and storm sewer systems conveying the discharge from outfalls should be clearly identified and marked on the map. The map should also list and indicate the location of EPSCs that will be used at the construction site. NOIs for linear projects must specify the location of each end of the construction area and all areas to be disturbed. Commercial builders that develop separate SWPPPs that cover only their portion of the project shall also submit a site or plat map that clearly indicates the lots for which they are applying for permit coverage and the location of EPSCs that will be used at each lot.

2.6.3 Application completeness

The department recommends that all applicants use the Notice of Intent (NOI) & Stormwater Pollution Prevention Plan (SWPPP) Checklist (see Land Development Manual – Appendix A) to check the completeness of their submittal.

Based on a review of the NOI and other available information, the department shall:

a) issue a NOC to the initial site-wide primary operator for the construction site (see Subsection 1.5),

b) prepare a deficiency letter stating additional information must be provided before the NOC can be issued, or

c) deny coverage under this general permit.

2.7 WHERE TO SUBMIT THE NOI, SWPPP AND APPLICATION FEE

The applicant shall submit the NOI, SWPPP and APPLICATION fee to the City of Knoxville Department of Engineering. The TDEC’s Nashville Central Office will serve as a processing office for NOIs submitted by federal or state agencies (including, but not limited to the Tennessee Department of Transportation (TDOT), Tennessee Valley Authority (TVA) and the local Municipal Separate Storm Sewer System (MS4) programs).

The City of Knoxville Department of Engineering may be reached by telephone at (865) 215-2148.
SECTION 3  SWPPP REQUIREMENTS

3.1  THE GENERAL PURPOSE OF THE SWPPP

A SWPPP must be prepared and submitted along with the NOI as required in Subsection 1.4.2 (SWPPP). The primary permittee must implement the SWPPP as written from commencement of construction activity until final stabilization is complete or until the permittee does not have design or operational control of any portion of the construction site. Requirements for termination of site coverage are provided in Section 8 (Requirements for Termination of Coverage).

A site-specific SWPPP must be developed for each construction project or site covered by this permit. The design, inspection and maintenance of Best Management Practices (BMPs) described in the SWPPP must be prepared in accordance with good engineering practices. At a minimum, BMPs shall be consistent with the requirements and recommendations contained in the current edition of the Tennessee Erosion and Sediment Control Handbook (handbook). The handbook is designed to provide information to planners, developers, engineers, and contractors on the proper selection, installation, and maintenance of BMPs. This policy allows the use of innovative or alternative BMPs, whose performance has been documented to be equivalent or superior to conventional BMPs as certified by the SWPPP designer.

Once a definable area has been finally stabilized, the permittee may identify this area on the SWPPP. No further SWPPP or inspection requirements apply to that portion of the site (e.g., earth-disturbing activities around one of three buildings in a complex are done and the area is finally stabilized, one mile of a roadway or pipeline project is done and finally stabilized, etc.).

For more effective coordination of BMPs, a cooperative effort by the different operators at a site to prepare and participate in a comprehensive SWPPP is expected. Primary permittees at a site may develop separate SWPPPs that cover only their portion of the project. In instances where there is more than one SWPPP for a site, the permittees must ensure the stormwater discharge controls and other measures are compatible with one another and do not prevent another operator from complying with permit conditions. The comprehensive SWPPP developed and submitted by the primary permittee must assign responsibilities to secondary permittees and coordinate all BMPs at the construction site. Assignment and coordination can be done by name or by job title.

3.1.1 Registered engineer requirement

The narrative portion of the SWPPP shall be prepared by an individual who has a working knowledge of erosion prevention and sediment controls, such as (but not limited to) a Certified Professional in Erosion and Sediment Control (CPESC) or a person that successfully completed the “Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites” course. Plans and specifications for any building or structure, including the design of sediment basins or other sediment controls involving structural, hydraulic, hydrologic or other engineering calculations shall be prepared by a licensed professional engineer and stamped and certified in accordance with the Tennessee Code Annotated, Title 62, Chapter 2 (see Section 10 (Definitions)) and the rules of the Tennessee Board of Architectural and Engineering Examiners. Engineering design of sediment basins must be included in SWPPPs for construction sites involving drainage to an outfall totaling 5 or more acres with unavailable parameters of Exceptional Tennessee Waters (see Subsection 5.4.1).

3.1.2 Site assessment

Quality assurance of erosion prevention and sediment controls (EPSCs) shall be done by performing site assessments. The site assessment shall be conducted at each outfall draining 5 or more acres within 30
days of construction commencing at each portion of the site that drains the qualifying. The site assessment shall be performed by individuals with one or more of following qualifications:

   a) A licensed professional engineer or landscape architect.

   b) A Certified Professional in Erosion and Sediment Control (CPESC).

   c) A person that successfully completed the “Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites” course.

At a minimum, site assessments should be performed to verify the installation, functionality and performance of the EPSC measures described in the SWPPP. IF structural BMPs (or equivalent EPSC measures) are not constructed or construction is in progress at the time of the site assessment, a follow-up monthly assessment(s) are required until the BMPs are constructed per the SWPPP. The site assessment should be performed with the inspector (as defined in Section 10), and should include a review and update (if applicable) of the SWPPP. Modifications of plans and specifications for any building or structure, including the design of sediment basins or other sediment controls involving structural, hydraulic, hydrologic or other engineering calculations shall be prepared by a licensed professional engineer and stamped and certified in accordance with the Tennessee Code Annotated, Title 62, Chapter 2 (see Section 10 (Definitions)) and the rules of the Tennessee Board of Architectural and Engineering Examiners.

The site assessment findings shall be documented and the documentation kept with the field SWPPP at the site. At a minimum, the documentation shall include information required in the inspection form provided in Appendix C (Inspection Report Form) of this permit, an assessment of any failing or unmaintained EPSCs, causes of failure and any action necessary to bring the site into compliance with this permit. The documented quality assurance assessments shall also indicate if all EPSCs have been installed as designed in the submitted SWPPP and EPSC plans; and, if not, measures that need to be taken so those EPSCs meet the design specifications in the field and EPSC plans. The documentation must contain the printed name and signature of the individual performing the site assessment and the following certification:

“I certify under penalty of law that this report and all attachments are, 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 as specified in Tennessee Code Annotated Section 39-16-702(a)(4), this declaration is made under penalty of perjury.”

The site assessment can take the place of one of the twice weekly inspections requirement from Subsection 3.5.8.2 (Schedule of inspections) if the entire site is inspected during the assessment.

The department may require additional site assessments to be performed if site inspection by department’s personnel reveals site conditions that have the potential of causing pollution to the waters of the state.
3.2 SWPPP PREPARATION AND COMPLIANCE

3.2.1 Existing site

Operators of an existing site currently covered under a previous TDEC or City of Knoxville CGP shall maintain full compliance with their existing SWPPP. If the director deems it necessary, the existing SWPPP must be modified to meet requirements of the new CGP, and changes to the SWPPP must be implemented no later than 12 months following the SWPPP modification. The permittee shall make the updated SWPPP available for the department’s review upon request.

3.2.2 New sites or new phases of existing sites

For construction stormwater discharges not authorized under an NPDES permit as of the effective date of this permit, a SWPPP that meets the requirements of Subsection 3.5 (Components of the SWPPP) of this policy shall be prepared and submitted along with the NOI and an appropriate fee for coverage under this permit.

3.3 SIGNATURE REQUIREMENTS, SWPPP REVIEW AND MAKING PLANS AVAILABLE

3.3.1 Signature requirements

The SWPPP shall be signed by the operators in accordance with Subsection 7.7 (Signatory Requirements), and if applicable, certified according to requirements in Subsection 3.1.1 (Registered engineer requirement). All signatures must be original. Electronic signatures are deemed equivalent to original signatures. A SWPPP that does not bear an original signature or an electronic signature will be deemed incomplete.

3.3.2 SWPPP Review

The permittee shall make updated plans and inspection reports available upon request to the director; the local agency approving erosion prevention and sediment control plans, grading plans, land disturbance plans; or stormwater management plans, or the operator of an MS4.

3.3.3 Making plans available

A copy of current version of the SWPPP shall be retained on-site at the location which generates the stormwater discharge in accordance with Section 6 of this policy. If the site is inactive or does not have an onsite location adequate to store the SWPPP, the location of the SWPPP, along with a contact phone number, shall be posted on-site. If the SWPPP is located offsite, reasonable local access to the plan, during normal working hours, must be provided.

3.4 KEEPING PLANS CURRENT

3.4.1 SWPPP modifications

The permittee must modify and update the SWPPP if any of the following conditions apply:

a) Whenever there is a change in the scope of the project that would be expected to have a significant effect on the discharge of pollutants to the waters of the state and which has not otherwise been addressed in the SWPPP. If applicable, the SWPPP must be modified or updated whenever there
is a change in chemical treatment methods, including the use of different treatment chemical, 
different dosage or application rate or different area of application.

b) Whenever inspections or investigations by site operators; or local, state or federal officials indicate 
the SWPPP is proving ineffective in eliminating or significantly minimizing pollutants from 
sources identified under Subsection 3.5.2 (Description of stormwater runoff controls), or is 
otherwise not achieving the general objectives of controlling pollutants in stormwater discharges 
associated with construction activity. Where local, state or federal officials determine that the 
SWPPP is ineffective in eliminating or significantly minimizing pollutant sources, a copy of any 
correspondence to that effect must be retained in the SWPPP.

c) Whenever any new operator (typically a secondary permittee) who will implement a measure of 
the SWPPP must be identified (see Subsections 2.1 and 2.2 (Who Must Submit an NOI? and 
Construction Site Operators, respectively) for further description of which operators must be 
identified).

d) Whenever it is necessary to include measures intended to prevent a negative impact to legally 
protected state or federally listed fauna or flora (or species proposed for such protection – see 
Subsection 1.3 (Limitations on Coverage)). Amendments to the SWPPP may be reviewed by the 
department, a local MS4, the EPA, or an authorized regulatory agency.

e) Whenever a TMDL is developed for the receiving waters for a pollutant of concern (e.g. siltation 
and habitat alteration due to in-channel erosion).

3.5 COMPONENTS OF THE SWPPP

The SWPPP shall include the following items, as described in Subsections 3.5.1 to 3.5.10: a site 
description; a description of stormwater runoff controls, erosion prevention and sediment control 
measures, stormwater management measures, and a description of any other items needing control; 
approved local government sediment and erosion control requirements; maintenance and inspection 
requirements; pollution prevention measures for non-stormwater discharges, and documentation of 
permit eligibility related to Total Maximum Daily Loads (TMDL). The SWPPP must:

a) identify all potential sources of pollutions likely to affect the quality of stormwater discharges from 
the construction site;

b) describe practices to be used to reduce pollutants in stormwater discharges from the construction 
site; and

c) assure compliance with the terms and conditions of this permit.

3.5.1 Site description

Each SWPPP shall provide a description of pollutant sources and other information as indicated below:

a) A description of all construction activities at the site (not just grading and street construction).

b) The intended sequence of activities which disturb soils for major portions of the site (e.g., 
grubbing, excavation, grading, utilities and infrastructure installation).
c) Estimates of the total area of the site and the total area that is expected to be disturbed by excavation, grading, filling or other construction activities.

d) A description of the topography of the site including an estimation of the percent slope and the variation in percent slope found on the site. The estimate should be on a basis of a drainage area serving each outfall, rather than an entire project.

e) An estimate of drainage area (acres) serving each outfall

f) Data describing the soil, how the soil type will dictate the needed control measures and how the soil may affect the expected quality of runoff from the site. The data may be references or summarized.

g) An estimate of the runoff coefficient of the site after construction activities are completed and how the runoff will be handled to prevent erosion at the permanent outfall and receiving stream. The estimate of the percentage of impervious area before and after construction must also be provided.

h) An erosion prevention and sediment control plan with the proposed construction area clearly outlined. The plan should indicate the boundaries of the permitted area, drainage patterns, approximate slopes anticipated after major grading activities, areas of soil disturbance, an outline of areas which are not to be disturbed, the location of major structural and nonstructural controls identified in the SWPPP, the location of areas where stabilization practices are expected to occur, surface waters including wetlands, and sinkholes, and identification on the erosion control plan of outfall points intended for coverage. The erosion control plan must meet requirements stated in Subsection 3.5.2.

i) A description of any discharge associated with industrial activity other than construction stormwater that originates on site and the location of that activity and its permit number.

j) Identification of any stream or wetland on or adjacent to the project, a description of any anticipated alteration of these waters and the permit number or the tracking number of the Aquatic Resources Alteration Permit (ARAP) or Section 401 Certification issued for the alteration.

k) The name of the receiving waters and the identification if those receiving waters have unavailable parameters for siltation and habitat alterations due to in-channel erosion of are Exceptional Tennessee Waters.

l) If applicable, clearly identify and outline the construction riparian buffer zones established to protect waters of the state located within the boundaries of the project.

m) Some construction projects, such as residential or commercial subdivisions and/or developments or industrial parks are subdivided. Subdivided lots are sometimes sold to new owners prior to completion of construction. The site-wide developer/owner must describe EPSC measures implemented at those lots. Once the property is sold, the new operator must obtain coverage under this permit.

n) A description of the construction phasing for projects of more than 50 acres, the construction (see Subsection 3.5.3.1 (General criteria and requirements)).

o) A description of the protections (e.g. caution fencing or construction riparian buffer zones) employed to limit the disturbance if only a portion of the total acreage of the construction site is to be disturbed.
The limits of disturbance shall be clearly identified in the SWPPP and the areas to be undisturbed clearly marked in the field before construction activities begin.

3.5.2 Description of stormwater runoff controls

The SWPPP shall include a description of appropriate erosion prevention and sediment controls and other Best Management Practices (BMPs) that will be implemented at the construction site. The SWPPP must clearly describe each activity which disturbs soils for major portions of the site (e.g., grubbing, excavation, grading, utilities and infrastructure installation). The SWPPP must also describe:

a) Appropriate control measures and the general timing for the measures to be implemented during construction activities.

b) Which permittee is responsible for implementation of which controls.

The SWPPP must include EPSC plans showing the approximate location of each control measure and description of when the measure will be implemented during the construction (e.g., prior to the start of earth disturbance, as the slopes are altered and after major grading is finished). The different stages of construction and the EPSC measures that will be utilized during each stage should be depicted on multiple plan sheets. Half sheets are acceptable. One sheet showing all EPSCs that will be used during the life of the multi-phase project implementing different EPSC controls at each stage will not be considered complete.

At least two separate EPSC plan sheets shall be developed for site disturbances less than 5 acres. The first plan sheet will address the EPSC measures necessary to manage stormwater runoff, erosion and sediment during the initial land disturbance, or grading, stage. The second plan sheet will address the EPSC measures necessary to manage stormwater runoff, erosion and sediment during the final grading stage.

At least 3 separate EPSC plan sheets shall be developed for site disturbances of 5 acres or more. In addition to the two plan sheets described, a third plan sheet will address the EPSC measures necessary to manage stormwater runoff, erosion and sediment during any interim grading stages.

The description and implementation of controls shall address the following minimum components, as described in Subsections 3.5.3, 3.5.4, and 3.5.5. Additional controls may be necessary to comply with Subsection 3.5.2.

3.5.3 Erosion prevention and sediment control

3.5.3.1 General criteria and requirements

a) The construction-phase erosion prevention controls shall be designed to eliminate (or minimize if complete elimination is not possible) the dislodging and suspension of soil in water. Sediment controls shall be designed to retain mobilized sediment on site to the maximum extent practicable.

b) The design, inspection and maintenance of Best Management Practices (BMPs) described in the SWPPP must be prepared in accordance with good engineering practices and, at a minimum, shall be consistent with the requirements and recommendations contained in the current edition of the Tennessee Erosion and Sediment Control Handbook. In addition, all control measures must be properly selected, installed, and maintained in accordance with the manufacturer’s specifications (where applicable). All control measures selected must be able to slow runoff so that rill and gully
formation is prevented. When steep slopes or fine particle soils are present at the site, additional physical or chemical treatment of stormwater runoff may be required. Proposed physical or chemical treatment must be researched and applied according to the manufacturer’s guidelines and fully described in the SWPPP. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the permittee must replace or modify the control. Chemicals used for treating stormwater runoff must be shown to be non-toxic to sensitive aquatic species through a 48-hour or 96-hour acute toxicity test as reported in the product’s Material Safety Data Sheets. The chemical feed rate shall be such that the effluent concentration of the product is lower than the LC50 toxicity value for sensitive aquatic species as reported in the products Material Safety Data Sheets. Calculations used to determine the chemical feed rate so that runoff or effluent is not toxic to sensitive aquatic species shall also be included in the SWPPP. Chemicals used for treating stormwater runoff shall be applied in accordance with manufacturer specifications and securely stored on-site in the contractor’s staging and storage area if not stored off-site or provided by others. Chemicals shall not be applied directly to any stream.

c) The timing of the planting of the vegetation cover must be discussed in the SWPPP if permanent or temporary vegetation is to be used as a control measure. Planting cover vegetation during winter months or dry months should be avoided.

d) If sediment escapes the permitted area, off-site accumulations that have not reached a stream must be removed at a frequency sufficient to minimize off-site impacts (e.g., sediment that has escaped a construction site and collected in a street must be removed so that it does not subsequently wash into storm sewers and streams during the next rain or so that it does not pose a safety hazard to users of public streets). Permittees shall not initiate remediation or restoration of a stream without consulting the department first. This permit does not authorize access to private property. Arrangements concerning the removal of sediment on adjoining property must be settled by the permittee and the adjoining landowner’s.

e) Sediment should be removed from sediment traps, silt fences, sedimentation basins and other sediment controls as recommended in the Tennessee Erosion and Sediment Control Handbook. Sediment must be removed when design capacity has been reduced by 50%.

f) Litter, construction debris and construction chemicals exposed to stormwater shall be picked up prior to anticipate storm events or before being carried off of the site by wind so that they do not become a pollutant source for stormwater discharges. Erosion prevention and sediment control materials (e.g. silt fence) should be removed or otherwise prevented from becoming a pollutant source for stormwater discharges.

g) Erodible material storage areas (e.g., overburden and stockpiles of soil) and borrow pits that are used primarily for the permitted project and which are contiguous to the site are considered a part of the site and shall be identified on the NOI, addressed in the SWPPP and included in the fee calculation. TDOT projects shall be addressed in the Waste and Borrow Manual per the Statewide Stormwater Management Plan (SSWMP).

h) Pre-construction vegetative ground cover shall not be destroyed, removed or disturbed more than 14 days prior to grading or earth moving activities unless the area is subsequently temporarily or permanently stabilized.

i) Clearing and grubbing must be held to the minimum necessary for grading and equipment operation. Existing vegetation at the site should be preserved to the maximum extent practicable.
j) Construction must be sequenced to minimize the exposure time of graded or denuded areas.

k) Construction phasing is recommended on all projects regardless of size as an effective practice for minimizing erosion and limiting sedimentation. Construction must be phased to keep the total disturbed area less than 50 acres at any one time. Areas of the completed phase must be stabilized within 14 days (see Subsection 3.5.3.2). No more than 50 acres of active soil disturbance is allowed at any time during the construction project. This includes off-site borrow or disposal areas that meet the conditions of Subsection 1.2.2. The 50 acre limitation does not apply to linear construction projects (e.g., roadway, pipeline and other infrastructure construction activities) if the following conditions are met:

i. Where no one area of active soil disturbance is greater than 50 acres and the various areas of disturbance have distinct receiving waters.

ii. Where contiguous disturbances amount to greater than 50 acres, but no one distinct water is receiving run off from more than 50 disturbed acres.

iii. With the department’s written concurrence, where more than 50 acres of disturbance is to occur and where a single water body will receive run-off from more than 50 acres.

iv. Where no one area of active soil disturbance is greater than 50 acres and the various areas of disturbance are more than 5 miles apart.

In order for a linear project to take advantage of the 50 acre rule exemption outlined in this paragraph, the contractor shall conduct monthly site assessments as described in Subsection 3.1.2 (Site assessment) until the site is permanently stabilized.

l) EPSC measures must be in place and functional before earth moving operations begin, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the workday, but must be replaced at the end of the workday.

m) The following records shall be maintained on or near the site: the dates when major grading activities occur; the dates when construction activities temporarily or permanently cease on a portion of the site; the dates when stabilization measures are initiated; inspection records and rainfall records.

n) Off-site vehicle tracking of sediment and the generation of dust shall be minimized. A stabilized construction access shall be described and implemented, as needed, to reduce the tracking of mud and dirt onto public roads by construction vehicles.

o) Permittees shall maintain a rain gauge and daily rainfall records at the site, or use a reference site for a record of daily precipitation.

3.5.3.2 Stabilization practices
The SWPPP shall include a description of temporary and permanent stabilization practices, including site-specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved when possible. Stabilization practices may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees and the preservation of mature vegetation. Use of impervious surfaces for final stabilization in lieu of a permanent vegetative cover should be avoided where practicable. No stabilization control measures or EPSC measures are to be installed in a stream without obtaining a Section 404 permit and an Aquatic
Resources Alteration Permit (ARAP). Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site must be completed no later than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

a) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable.

b) Where construction activity on a portion of the site is temporarily ceased, but soil disturbing activities will be resumed within 14 days.

Steep slopes shall be stabilized no later than seven days after construction activity on the slope has temporarily or permanently ceased.

Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.

3.5.3.3 Structural practices
The SWPPP shall include a description of structural practices to divert flows from exposed soils, store flows or otherwise limit runoff and discharge of pollutants from exposed areas of the site. Such practices may include silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Structural controls shall not be placed in streams or wetlands except as authorized by a section 404 permit and/or Aquatic Resources Alteration Permit (ARAP).

EPSC measures must be prepared in accordance with good engineering practices and the latest edition of the Tennessee Erosion and Sediment Control Handbook. In addition, EPSC measures shall be designed to minimize erosion and maximize sediment removal resulting from a 5-year, 24-hour storm (the design storm – see Section 10: “5-year frequency storm”), as a minimum, either from total rainfall in the designated period or the equivalent intensity as specified on the following website http://hdsc.nws.noaa.gov/hdsc/pfds/orb/tn_pfds.html. Chemical treatment of the stormwater runoff may be necessary to minimize the amount of sediment being discharged when clay and other fine particle soils or highly erodible soils are present at the construction site.

For an on-site outfall that receives drainage from 5 or more acres, a minimum sediment basin volume that will provide treatment for a calculated volume of runoff from a 5-year, 24-hour storm and runoff from each acre drained, or equivalent control measures as specified in the Tennessee Erosion and Sediment Control Handbook, shall be provided until final stabilization of the site. A drainage area of 5 or more acres includes disturbed and undisturbed portions of the site and areas adjacent to the site, all draining through the common outfall. Where an equivalent control measure is substituted for a sediment retention basin, the equivalency must be justified to the department. Runoff from any undisturbed acreage should be diverted around the disturbed area and the sediment basin. Diverted runoff can be omitted from the volume calculation. Sediment storage expected from the disturbed areas must be included. All calculations of drainage areas, runoff coefficients and basin volumes must be provided in the SWPPP. The discharge structure from a sediment basin must be designed to retain sediment during the lower flows. Muddy water to be pumped from excavation and work areas must be held in settling basins, filtered or
chemically treated prior to its discharge into surface waters. Water must be discharged through a pipe;
grassed or lined channel or other equivalent means so that the discharge does not cause erosion and
sedimentation. Discharged water must not cause an objectionable color contrast with the receiving stream.

3.5.4 Stormwater management

The SWPPP shall include a description of any measures that will be installed during the construction
process to control pollutants in stormwater discharges that will occur after construction operations have
been completed, including a brief description of applicable State or local erosion and sediment control
requirements.

For projects discharging to waters with Unavailable Parameters for sediment and habitat alterations due
to in-channel erosion, the SWPPP shall include a description of measures that will be installed during
the construction process to control pollutants and the increase impervious area after the construction
addressed in the permit application is completed, the nature of fill material and existing data describing
the soil or quality of the discharge. The SWPPP shall also include a description of measures that will
be installed to dissipate the volume and energy of the stormwater runoff to pre-development levels.

This policy only addresses the installation of stormwater management measures and not the ultimate
operation and maintenance of such structures after the construction activities have been completed, the
site has undergone final stabilization and the permit coverage has been terminated. Permittees are only
responsible for the operation and maintenance of stormwater management measures prior to final
stabilization of the site and permit coverage being terminated. Permittees are not responsible for
maintenance after permitted stormwater discharges associated with construction activity have been
eliminated from the site. All permittees are encouraged to limit the amount of post construction runoff
voluntarily, if not required by local building regulations or local MS4 program requirements, to minimize
in-stream channel erosion in the receiving stream.

Construction stormwater runoff management practices may include: stormwater detention structures
including ponds with a permanent pool; stormwater retention structures; flow attenuation by use of open
vegetated swales and natural depressions; infiltration of runoff onsite; and sequential systems which
combine several practices.

Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall
channel to provide a non-erodable velocity flow from the structure to the receiving stream so that the natural
physical and biological characteristics and functions of the stream are maintained and protected (i.e., there
should be no significant changes in the hydrological regime of the receiving water). The SWPPP shall
include an explanation of the technical basis used to select the velocity dissipation devices to control
pollution where flows exceed pre-development levels. The Tennessee Erosion and Sediment Control
Handbook provides measures that can be incorporated into the design or implemented on site to decrease
erosive velocities. An Aquatic Resources Alteration Permit (ARAP) from TDEC may be required if such
velocity dissipation devices installed would alter the receiving stream or its banks.

3.5.5 Other items needing control

a) No solid materials, including building materials, shall be placed in waters of the state, except as
authorized by a section 404 permit and/or Aquatic Resources Alteration Permit (ARAP) (see
Section 9 (Aquatic Resource Alteration Permits (ARAP))).
b) The SWPPP shall identify and provide the necessary EPSC measures for the installation of any waste disposal system, sanitary sewer or septic system. Permittees must also comply with applicable state and/or local waste disposal, sanitary sewer or septic system regulations as necessary.

c) The SWPPP shall include a description of construction and waste materials expected to be stored on-site. The SWPPP shall also include a description of controls used to reduce pollutant from materials stored on site. Controls may include storage practices to minimize exposure of the materials to stormwater or spill prevention and response.

d) A description of stormwater sources from areas other than construction and a description of controls and measures that will be implemented at those sites.

e) A description of measures necessary to prevent “taking” of legally protected state or federal listed threatened or endangered aquatic fauna or critical habitat, if applicable. The permittee must describe and implement such measures to maintain eligibility for coverage under this permit.

3.5.6 Approved local government sediment and erosion control requirements

Permittees must comply with any additional erosion prevention, sediment control and stormwater management measures required by a local municipality or permitted MS4 program.

3.5.7 Maintenance

The SWPPP shall describe procedures to ensure that vegetation, erosion prevention and sediment control measures, buffer zones, and other protective measures are kept in good and effective operating condition. Maintenance needs identified in inspections or by other means shall be accomplished before the next storm event, but in no case more than seven days after the need is identified.

3.5.8 Inspections

3.5.8.1 Inspector training and certification

Twice weekly inspections can be performed by:

a) a person with a valid certification from the “Fundamentals of Erosion Prevention and Sediment Control Level I” course,

b) a licensed professional engineer or landscape architect,

c) a Certified Professional in Erosion and Sediment Control (CPESC), or

d) a person who has successfully completed the “Level II Design Principles for Erosion Prevention and Sediment Control for Construction Site” course.

A copy of the certification, or training record for inspector certification, should be kept on site.

3.5.8.2 Schedule of inspections

a) Inspections described in paragraphs b, c, and d shall be performed at least twice every calendar week. Inspections shall be performed at least 72 hours apart. Where sites, or portions of construction sites, have been temporarily stabilized, inspections only have to be conducted once per month until
construction activity resume. Inspection requirements do not apply to definable areas that have been finally stabilized, as described in Subsection 3.1 (The General Purpose of the SWPPP). Written notification of the intent to change the inspection frequency and the justification for such request must be submitted to the department, or TDEC’s Nashville Central Office for projects of the Tennessee Department of Transportation (TDOT) and the Tennessee Valley Authority (TVA). Should the department discover that monthly inspections of the site are not appropriate due to insufficient stabilization measures or otherwise, twice weekly inspections shall resume. The department may inspect the site to confirm or deny the notification to conduct monthly inspections.

b) Qualified personnel, as defined in 3.5.8.1 (Inspector training and certification) (provided by the permittee or cooperatively by multiple permittees), shall inspect disturbed areas of the construction site that have not been permanently stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, locations where vehicles enter or exit the site, and each outfall.

c) Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the site’s drainage system. EPSC measures shall be observed to ensure that they are operating correctly.

d) Outfall points shall be inspected to determine whether EPSC measures are effective in preventing significant impacts to receiving waters. Where discharge locations are inaccessible, nearby downstream locations shall be inspected. Locations where vehicles enter or exit the site shall be inspected for evidence of offsite sediment tracking.

e) Based on the results of the inspection, any inadequate control measures or control measures in disrepair shall be replaced, modified, or repaired as necessary, before the next rain event, but in no case more than seven days after the need is identified.

f) Based on the results of the inspection, the site description identified in the SWPPP in accordance with Subsection 3.5.1 (Site description) and pollution prevention measures identified in the SWPPP in accordance with Subsection 3.5.2 (Description of stormwater runoff controls) shall be revised as appropriate, but in no case later than seven days following the inspection. Such modifications shall provide for timely implementation of any changes to the SWPPP, but in no case later than 14 days following the inspection.

g) All inspections shall be documented on the Construction Stormwater Inspection Certification form provided in Appendix C of this policy for all construction sites. An alternative inspection form may be used as long as the form contents and the inspection certification language are, at a minimum, equivalent to the department’s form and the permittee has obtained a written approval from the department to use the alternative form. The form must contain the printed name and signature of the inspector and the certification must be executed by a person who meets the signatory requirements of Subsection 7.7.2. Inspection documentation will be maintained on site and made available to the department upon request. Inspection reports must be submitted to the department within 10 days of the request. If the department requests the Construction Stormwater Inspection Certification form to be submitted, a copy of the signed original must be submitted.

h) Trained certified inspectors shall complete inspection documentation to the best of their ability. Falsifying inspection records, or other documentation; or failure to complete inspection documentation shall result in a violation of this policy and any other applicable acts or rules.

i) Subsequent primary permittees who have obtained coverage under this policy should conduct
twice weekly inspections, unless their portions of the site has been temporarily stabilized, runoff is unlikely due to winter conditions or due to extreme drought as stated in Subsection 3.5.8.2.a. The primary permittee (such as a developer) is no longer required to conduct inspections of the site that are covered by a subsequent primary permittee (such as a home builder).

3.5.9 Pollution prevention measures for non-stormwater discharges

The SWPPP must identify the source of any non-stormwater discharge listed in Subsection 1.2.3 (*Non-stormwater discharges authorized by this policy*) if it is to be combined with stormwater discharges associated with construction activity. The SWPPP shall identify and ensure the implementation of appropriate pollution prevention measures for the non-stormwater components of the discharge. Any non-stormwater runoff must be discharged through stable discharge structures. Estimated volume of the non-stormwater components of the discharge must be included in the design of all impacted control measures.

3.5.10 Documentation of permit eligibility related to Total Maximum Daily Loads (TMDL)

The SWPPP must include documentation supporting a determination of permit eligibility with regard to waters that have an approved TMDL for a pollutant of concern, including:

a) whether the discharge is identified, either specifically or generally, in an approved TMDL and any associated wasteload allocations, site-specific requirements, and assumptions identified for the construction stormwater discharge;

b) summaries of consultations with the department on consistency of SWPPP conditions with the approved TMDL, and

c) measures taken to ensure that the discharge of TMDL identified pollutants from the site is consistent with the assumptions and requirements of the approved TMDL, including any specific wasteload allocation that has been established that would apply to the construction stormwater discharge.
SECTION 4 CONSTRUCTION AND DEVELOPMENT EFFLUENT GUIDELINES

4.1 NON-NUMERIC EFFLUENT LIMITATIONS

Any point source authorized by this general permit must achieve, at a minimum, the effluent limitations representing the degree of effluent reduction attainable by application of best practicable control technology (BPT) currently available and is described in Subsections 4.1.1 through 4.1.7.

4.1.1 Erosion prevention and sediment controls

Design, install and maintain effective erosion controls and sediment controls to minimize the discharge of pollutants. At a minimum, such controls must be designed, installed and maintained to:

1) Control stormwater volume and velocity to minimize soil erosion in order to minimize pollutant discharges;

2) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize channel and stream-bank erosion and scour in the immediate vicinity of discharge points;

3) Minimize the amount of soil exposed during construction activity

4) Minimize the disturbance of steep slopes;

5) Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;

6) Provide and maintain natural buffers as described in Subsection 4.1.2, direct stormwater to vegetated areas and maximize stormwater infiltration to reduce pollutant discharges, unless infeasible;

7) Minimize soil compaction. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted; and

8) Unless infeasible, preserve topsoil. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed.

4.1.2 Construction riparian buffer zone requirements

Construction riparian buffer zone (CRBZ) requirements in this section apply to all streams adjacent to construction sites except for streams with unavailable parameters or Exceptional Tennessee Waters (see Subsection 5.4.2). A 30-foot natural CRBZ adjacent to all streams at a construction site shall be preserved, to the maximum extent practicable, during construction activities. The CRBZ is required to protect waters of the state that are not wet weather conveyances (e.g., perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project, as identified using Tennessee’s standard operating procedures for hydrologic determinations set forth in Rule 0400-40-03-.05(9). Because of heavy sediment load associated with construction site runoff, CRBZs are not primary sediment control measures and should not be relied on as such. However, the
primary purpose of CRBZ is additional pollutant removal. Stormwater discharges must enter the CRBZ as sheet flow, not as concentrated flow, where site conditions allow. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, to improve its effectiveness in protecting waters of the state.

The CRBZ should be preserved between the top of stream bank and the disturbed construction area. The 30-foot criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than 15 feet at any measured location. If the construction site encompasses both sides of a stream, buffer averaging can be applied to both sides, but must be applied independently.

Every attempt should be made for construction activities to not take place within the CRBZ and for existing forested areas to be preserved. Where it is not practicable to maintain a full CRBZ, BMPs providing equivalent protection to a receiving stream as a natural riparian buffer must be used at a construction site. Equivalent BMPs shall be designed to be as effective in protecting the receiving stream from the impacts of construction stormwater runoff as a natural riparian buffer. A justification for use and a design of equivalent BMPs shall be included in the SWPPP. Such equivalent BMPs are expected to be routinely used at construction projects typically located adjacent to surface waters. These projects may include sewer line construction, roadway construction, utility line or equipment installation, greenway construction, construction of a permanent outfall or a velocity dissipating structure.

This requirement does not apply to any valid Aquatic Resources Alteration Permit (ARAP), or equivalent permits issued by federal authorities. Additional buffer zone requirements may be established by the local MS4 program.

4.1.2.1 Construction riparian buffer zone exemption based on existing uses

CRBZs as described in Subsection 4.1.2 shall not be required in portions of the buffer where certain land uses exist and are to remain in place according to the following:

a) A use shall be considered existing if it was present within the buffer zone as of the date of the Notice of Intent for coverage under the CGP. Existing uses may buffer include buildings, parking lots, roadways, utility lines and on-site sanitary sewage systems. Only the portion of the buffer zone that contains the footprint of the existing land use is exempt from buffer zones. Activities necessary to maintain uses are allowed provided that no additional vegetation is removed from the buffer zone.

b) If an area with an existing land use is proposed to be converted to another use or the impervious surfaces located within the buffer area are being removed, CRBZ requirements shall apply.

4.1.2.2 Pre-approved Sites

Construction activities at sites that have been pre-approved prior to February 1, 2010, are exempt from the CRBZ requirements of Subsection 4.1.2. Evidence of pre-approval for highway projects shall be a final right-of-way plan and for other construction projects, the final design drawings with attached written and dated approval by the local, state or federal agency with authority to approve such design drawings for construction.

4.1.3 Soil stabilization

Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have temporarily or permanently ceased on any
portion of the site, and will not resume for a period exceeding 14 calendar days. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures such as, properly anchored mulch, soil binders, matting) must be employed.

4.1.4 Dewatering

Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls. Appropriate controls include weir tanks, dewatering tanks, gravity bag filters, sand media particulate filter, pressurized bag filter, cartridge filter or other control units providing the level of treatment necessary to comply with permit requirements.

4.1.5 Pollution prevention measures

The permittee must design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented and maintained to:

a) minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

b) minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater; and

c) minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

Soil analysis shall be performed prior to the application of fertilizer to any portion of the site. Soil analysis shall include parameters included in the Basic Test by the UT Agriculture Extension for developing and maintaining fertilizer programs (e.g., soil pH, buffer value, phosphorus, potassium, calcium, magnesium). Soil samples should be representative of the area for which fertilizer will be applied. Sample type should be composite and should be collected in accordance with the guidance provided in the University of Tennessee Extension “Soil Testing” brochure PB1061, available at: http://utextension.tennessee.edu/publications/Documents/PB1061.pdf. Soil analysis results shall be used to determine correct fertilizer application rates to prevent the over application of fertilizer to the site. Documentation of required soil analysis is maintained onsite with the SWPPP.

4.1.6 Prohibited discharges

The following discharges are prohibited:

a) Wastewater from washout of concrete, unless managed by an appropriate control;
b) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
c) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and

d) Soaps or solvents used in vehicle and equipment washing.

4.1.7 Surface outlets

Discharges from basins and impoundments shall utilize outlet structures that only withdraw water from near the surface of the basin or impoundment, unless infeasible.
SECTION 5  SPECIAL CONDITIONS, MANAGEMENT PRACTICES, AND OTHER NON-NUMERIC EFFLUENT LIMITATIONS

5.1  RELEASES IN EXCESS OF REPORTABLE QUANTITIES

The discharge of hazardous substances or oil in the stormwater discharges from a facility shall be prevented or minimized in accordance with the applicable stormwater pollution prevention plan for the facility. This policy does not relieve the permittee of the reporting requirements of 40 CFR 117 and 40 CFR 302. Where a release containing a hazardous substance in an amount equal to or in excess of a reportable quantity established under either 40 CFR 117 or 40 CFR 302 occurs during a 24 hour period:

a) The permittee is required to notify the National Response Center (NRC) (800-424-8802), the Tennessee Emergency Management Agency (emergencies: 800-262-3300; non-emergencies: 800-262-3400) and the Knoxville-Knox County Emergency Management Agency (865-215-1177) in accordance with the requirements of 40 CFR 117 or 40 CFR 302 as soon as he or she has knowledge of the discharge;

b) As soon as any person has knowledge of any illicit spills or discharges to the stormwater system in violation of this section, such person shall immediately notify the Director of this discharge. If such person is directly or indirectly responsible for such discharge or responsible for the operation of the system or business, then such person shall also take immediate action to ensure the containment and cleanup of such discharge and shall confirm such notification with a written report to the Director within three (3) calendar days. At a minimum, the written report for any illicit discharge shall include:

   i. Date and time of the discharge;
   ii. Location of the discharge;
   iii. Material or substance discharged;
   iv. Duration and rate of flow;
   v. Total volume discharged;
   vi. Total volume recovered
   vii. Cause or reason for the discharge;
   viii. Remediation and containment action taken;
   ix. Material Safety Data Sheets (MSDS) or Safety Data Sheets (SDS) for the discharged material;
   x. Action taken to prevent further discharges; and
   xi. Description of any environmental impact.
c) The SWPPP required under Section 3 of this policy must be updated within 7 days of knowledge of the release: to provide a description of the release, the circumstances leading to the release, and the date of the release. This can be accomplished by including a copy of a written description of the release as described in the Subsection 5.1.b. In addition, the SWPPP must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.

5.2 SPILLS

This policy does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

5.3 DISCHARGE COMPLIANCE WITH STATE WATER QUALITY STANDARDS

5.3.1 Violation of water quality standards

This policy does not authorize stormwater or other discharges that would cause or contribute to a violation of a state water quality standard (Tennessee Rules, Chapters 0400-40-03, 0400-40-04). Such discharges constitute a violation of this permit.

Where a discharge is already authorized under this policy and the department determines the discharge to cause or contribute to the violation of applicable state water quality standards, the department will notify the operator of such violation. The permittee shall take all necessary actions to ensure future discharges do not cause or contribute to the violation of a water quality standard and shall document these actions in the SWPPP.

5.3.2 Discharge quality

a) The construction activity shall be carried out in such a manner that will prevent violations of water quality criteria as stated in the Tennessee Rules, Chapter 0400-40-03-.03. This includes, but is not limited to, the prevention of any discharge that causes a condition in which visible solids, bottom deposits or turbidity impair the usefulness of waters of the state for any of the uses designated for that water body by Tennessee Rules, Chapter 0400-40-04. Construction activity carried out in the manner required by this policy shall be considered in compliance with the Tennessee Rules, Chapter 0400-40-03-.03.

b) There shall be no distinctly visible floating scum, oil or other matter contained in the stormwater discharge.

c) The stormwater discharge must not cause an objectionable color contrast in the receiving stream.

d) The stormwater discharge must result in no materials in concentrations sufficient to be hazardous or otherwise detrimental to humans, livestock, wildlife, plant life, or fish and aquatic life in the receiving stream. This provision includes species covered under Subsection 1.3.
5.4. DISCHARGES INTO WATERS WITH UNAVAILABLE PARAMETERS OR EXCEPTIONAL TENNESSEE WATERS

5.4.1 SWPPP/BMP Requirements

Discharges that would cause measurable degradation of waters with unavailable parameters or that would cause more than de minimis degradation of Exceptional Tennessee Waters are not authorized by this policy (see Subsection 1.3). To be eligible to obtain and maintain coverage under this permit, the operator must satisfy, at a minimum, the following additional requirements for discharges into waters with unavailable parameters for siltation and habitat alterations due to in-channel erosion (or discharges upstream of such waters and because of the proximity to the segment with unavailable parameters and the nature of the discharge is likely to contribute sediment in amounts measurable in the waters with unavailable parameters) and for discharges to Exceptional Tennessee Waters (or discharges upstream of such waters and because of the proximity to the exceptional segment and the nature of the discharge is likely to cause more than de minimis degradation in the exceptional segment):

a) The SWPPP must certify that EPSC measures used at the site are designed to control stormwater runoff generated by a 5-year, 24-hour storm event (as defined in this document), at a minimum, either from total rainfall in the designated period or the equivalent intensity as specified on the following website http://hdsc.nws.noaa.gov/hdsc/pfds/tn_pfds.html. Additional physical or chemical treatment of stormwater runoff, such as use of treatment chemicals, may be necessary to minimize the amount of sediment being discharges when clay and other fine particle soils are found on sites.

b) The SWPPP must be prepared by individuals with one or more of the following qualifications:
   - A licensed professional engineer or landscape architect.
   - A Certified Professional in Erosion and Sediment Control (CPESC).
   - A person who has successfully completed the Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites course.

c) A copy of the certification or training record for inspector certification should be included with the field SWPPP.

d) The permittee shall perform inspections described in Subsection 3.5.8 at least twice every calendar week. Inspections shall be performed at least 72 hours apart.

e) The permittee must certify on the form provided in Appendix C of this policy whether or not all planned and designed EPSC measures are installed and in working order. The form must contain the printed name and signature of the inspector and the certification must be executed by a person who meets the signatory requirements of Subsection 7.7.2. The record of inspections must be kept at the construction site with a copy of the SWPPP. For record retention requirements, see Section 6.

f) If the department finds that an operator is contributing to the impairment of a receiving stream despite complying with the SWPPP, The operator will be notified by the director in writing that the discharge is no longer eligible for coverage under the general permit. The operator may update the SWPPP and implement the necessary changes designed to eliminate further impairment of the receiving stream. If the permittee does not implement the SWPPP changes within seven days of receipt of notification, the permittee will be notified in writing that continued discharges must be
covered by an individual permit (see Subsection 7.12). To obtain the individual permit, the operator must file an individual permit application (U.S. EPA NPDES Forms 1 and 2F). The project must be stabilized immediately and remain stable until the SWPPP is updated and the individual permit is issued. Only discharges from earth disturbing activities necessary for stabilization are authorized to continue until the individual permit is issued.

g) For an on-site outfall in a drainage area totaling five or more acres, a minimum sediment basin volume that will provide treatment for a calculated volume of runoff from a 5-year, 24-hour storm and runoff from each acre drained; or equivalent control measures as specified in the *Tennessee Erosion and Sediment Control Handbook*, shall be provided until final stabilization of the site. The drainage area includes both disturbed and undisturbed portions of the site and areas adjacent to the site, all draining through a common outfall. Where an equivalent control measure is substituted for a sediment retention basin, the equivalency must be justified in the SWPPP narrative. Runoff from any undisturbed acreage should be diverted around the disturbed area and the sediment basin. Diverted runoff can be omitted from the volume calculation. Sediment storage expected from the disturbed areas must be included and a marker installed signifying when sediment accumulation has reduced the wet storage volume by 50%. In a case that a sediment marker is damaged by the volume of water or sediment, a best professional judgment should be used in evaluating sediment basin capacity.

h) For an on-site outfall in a drainage area totaling 3.5 - 4.9 acres, a minimum sediment trap volume that will provide treatment for a calculated volume of runoff from a 5-year, 24-hour storm and runoff from each acre drained, is recommended until final stabilization of the site. A drainage area of 3.5 - 4.9 acres includes both disturbed and undisturbed portions of the site or areas adjacent to the site, all draining through the common outfall. Runoff from any undisturbed acreage should be diverted around the disturbed area and the sediment trap. Diverted runoff can be omitted from the volume calculation. Sediment storage expected from the disturbed areas must be included and a marker installed signifying when sediment accumulation has reduced the wet storage volume by 50%.

i) The director may require revisions to the SWPPP necessary to prevent a negative impact to legally protected state or federally listed aquatic fauna, their habitat, or the receiving waters.

5.4.2 Construction riparian buffer zone requirements

Sites that contain, or are adjacent to, receiving waters with unavailable parameters or Exceptional Tennessee Waters shall preserve a 60-foot natural construction riparian buffer zone (CRBZ) adjacent to the receiving stream. The buffer zone shall be preserved to the maximum extent practicable during construction activities at the site. The CRBZ is required to protect waters of the state, as identified using Tennessee’s standard operating procedures for hydrologic determinations set forth in Rule 0400-40-03-.05(9), located within, or immediately adjacent to, The boundaries of the project. Because of heavy sediment load associated with construction site runoff, CRBZs are not primary sediment control measures and should not be relied on as such. The primary purpose of a CRBZ is additional pollutant removal. Stormwater discharges must enter the CRBZ as sheet flow, not as concentrated flow, where site conditions allow. Rehabilitation and enhancement of a natural riparian buffer zone is allowed, if necessary, to improve its effectiveness in protecting waters of the state.

The natural riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The 60-foot criterion for the width of the CRBZ can be established on an average width basis at a project, as long as the minimum width of the buffer is more than 30 feet at any measured
location. If the construction site encompasses both sides of a stream, buffer averaging can be applied to both sides, but must be applied independently.

Every attempt should be made for construction activities not to take place within the CRBZ and for existing forested areas to be preserved. Where it is not practicable to maintain a full CRBZ, or if the construction site is located in an MS4 jurisdiction and would qualify for a smaller permanent riparian buffer due to the size of the drainage area, then BMPs providing equivalent protection to a receiving stream as a natural riparian zone may be used at a construction site. Equivalent BMPs shall be designed to be as effective in protecting the receiving stream from the impacts of stormwater runoff as a natural riparian buffer zone. A justification for use and a design of equivalent BMPs shall be included in the SWPPP. Such equivalent BMPs are expected to be routinely used at construction projects typically located adjacent to surface waters. These projects may include: sewer line construction, roadway construction, utility line or equipment installation, greenway construction, construction of a permanent outfall or a velocity dissipating structure.

This requirement does not apply to an area that is being altered under the authorization of a valid Aquatic Resources Alteration Permit (ARAP), or equivalent permits issued by federal authorities. Additional riparian buffer zone requirements have been established by the City of Knoxville in the Stormwater and Street Ordinance.

5.4.2.1 Construction riparian buffer zone exemption based on existing uses

CRBZs as described in Subsection 5.4.2 shall not be required in portions of the buffer where certain land uses exist and are to remain in place according to the following:

a) A use shall be considered existing if it was present within the buffer zone as of the date of the Notice of Intent for coverage under the CGP. Existing uses may include buildings, parking lots, roadways, utility lines and on-site sanitary sewage systems. Only the portion of the buffer zone that contains the footprint of the existing land use is exempt from buffer zones. Activities necessary to maintain uses are allowed provided that no additional vegetation is removed from the buffer zone.

b) If an area with an existing land use is proposed to be converted to another use or the impervious surfaces located within the buffer area are being removed, CRBZ requirements shall apply.

5.4.3 Pre-approved sites

Construction activities at sites that have been approved before February 1, 2010, are exempt from the buffer requirements of Subsection 5.4.2. Evidence of approval for highway projects shall be a final right-of-way plan and for other construction projects, the final design drawings with attached dated, written approval by the local, state or federal agency with authority to approve such design drawings for construction.
SECTION 6  RETENTION, ACCESSIBILITY AND SUBMISSION OF RECORDS

6.1 DOCUMENTS

The permittee shall retain copies of SWPPPs, reports required by this permit, records of all data used to complete the NOI and the NOT for a period of at least three years from the date the NOT is submitted. This period may be extended by written request of the director.

6.2 ACCESSIBILITY AND RETENTION OF RECORDS

The permittee shall retain a copy of the SWPPP and a copy of the permit at the construction site (or other local location accessible to the director and the public) from the date construction commences to the date of termination of permit coverage. Permittees with day-to-day operational control over SWPPP implementation shall have a copy of the SWPPP available at a central location onsite for the use of all operators and those identified as having responsibilities under the plan whenever they are on the construction site. The permittee shall maintain a copy of all records for a period of three years once coverage is terminated.

6.2.1 Posting information at the construction site

The initial site-wide permittee shall post a notice near the main entrance of the construction site accessible to the public with the following information:

a) A copy of the NOC with the NPDES permit tracking number for the construction project.

b) A name or company name; E-mail address (if available); telephone number and address of the project site owner/operator or a local contact person.

c) A brief description of the project.

d) The location of the SWPPP (see Subsection 3.3.3).

The notice must be maintained in a legible condition. The notice shall be posted in a local public building if posting this information near a main entrance is infeasible due to safety concerns or not accessible to the public. If the construction project is a linear construction project (e.g., pipeline or highway), the notice must be placed in a publicly accessible location near where construction is actively underway and moved as necessary. This permit does not provide the public with any right to trespass on a construction site for any reason, including inspection of a site. This permit does not require permittees to allow members of the public access to a construction site. The permittee shall also retain the following items in an appropriate location on-site:

a) A rain gauge (or use a reference site for a record of daily precipitation),

b) A copy of twice weekly inspection reports,

c) Documentation of quality assurance site assessments, if applicable (see Subsection 3.1.2).

d) A copy of the site inspector’s certification (e.g. Fundamentals of Erosion Prevention and Sediment Control Level 1 or level 2, P.E., P.L.A, CPESC).
6.3 ELECTRONIC SUBMISSION OF DOCUMENTS

If the department notifies dischargers by mail, E-mail, public notice or by making information available on the world wide web of electronic forms or other report options that become available at a later date (e.g., electronic submission of forms), the operators may take advantage of those options to satisfy the NOI, NOT and other report notification requirements.

SECTION 7 STANDARD POLICY CONDITIONS

7.1 DUTY TO COMPLY

7.1.1 Duty to comply

The permittee must comply with all conditions of this permit. Any policy noncompliance constitutes a violation of the Tennessee Water Quality Control Act (TWQCA) and is grounds for an enforcement action, permit termination, revocation and reissuance modification; or for denial of a permit renewal application.

7.1.2 Penalties

Please refer to the City of Knoxville Stormwater and Street Ordinance.

In some cases enforcement will revert back to TDEC, e.g. Subsections 7.1.3, 7.1.4, 7.8, and 7.9.

7.1.3 Civil and criminal liability

Nothing in this policy shall be construed to relieve the discharger from civil or criminal penalties for noncompliance. Notwithstanding this permit, the discharger shall remain liable for any damages sustained by the State of Tennessee, including but not limited to fish kills and losses of aquatic life and/or wildlife, as a result of the discharge to any surface or subsurface waters. Additionally, notwithstanding this permit, it shall be the responsibility of the discharger to conduct stormwater discharge activities in a manner such that public or private nuisances or health hazards will not be created. Furthermore, nothing in this policy shall be construed to preclude the State of Tennessee from any legal action or relieve the discharger from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or the Federal Water Pollution Control Act.

7.1.4 Liability under state law

Nothing in this policy shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable local, state or federal law.

7.2 CONTINUATION OF THE EXPIRED GENERAL PERMIT

Permittees shall maintain coverage under this general permit until a new general permit is issued. Permittees who choose not to maintain coverage under the expired general permit, or are required to obtain an individual permit, must submit an application (U.S. EPA NPDES Forms 1 and 2F and any other applicable forms) at least 180 days prior to expiration of this general permit.
Permittees who are eligible and choose to be covered by the new general permit must submit an NOI by the date specified in that permit. Facilities that have not obtained coverage under this policy by the permit expiration date cannot become authorized to discharge under the continued permit.

Operator(s) of an existing site permitted under the TDEC’s 2011 construction general permit shall maintain full compliance with the existing SWPPP. The existing SWPPP should be modified, if necessary, to meet requirements of this new general permit, and the SWPPP changes implemented no later than 12 months following the new permit effective date. The permittee shall make the updated SWPPP available for the department’s review upon request.

7.3 NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE

It shall not be a defense for a permittee 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.

7.4 DUTY TO MITIGATE

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this policy that has a reasonable likelihood of adversely affecting human health or the environment.

7.5 DUTY TO PROVIDE INFORMATION

The permittee shall furnish to the department or an authorized representative of the department, within a time specified by the department, any information that the department may request to determine compliance with this policy or other information relevant to the protection of the waters of the state. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit.

7.6 OTHER INFORMATION

When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the director, he or she shall promptly submit such facts or information.

7.7 SIGNATORY REQUIREMENTS

All NOIs, SWPPPs, requests for NOTs, Construction Stormwater Inspection Certifications, Construction Stormwater Monitoring Report forms, reports, certifications or information either submitted to the director or the operator of a large or medium municipal separate storm sewer system shall be signed as described in Subsections 7.7.1 and 7.7.2 (Signatory requirements for an NOI and Signatory requirements for reports and other items) and dated.

7.7.1 Signatory requirements for an NOI²

The NOI shall be signed as follows:

a) For a corporation, by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
   1. 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 site 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 general partnership, by each general partner in the general partnership,

c) For a sole proprietorship, by the proprietor,

d) For a municipality, state, federal, or other public agency, 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., Regional Administrators of EPA).

NOTE: The department does not require specific assignments or delegations of authority to responsible corporate officers. The department will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions rather than to specific individuals.

7.7.2 Signatory requirements for reports and other items

SWPPPs, Construction Stormwater Inspection Certification forms, reports, certifications or other information submittals required by the policy and other information requested by the department, including but not limited to Notice of Violation responses, shall be signed by a person described in Subsection 7.7.1, or by a duly authorized representative of that person.

7.7.3 Duly authorized representative

For a purpose of satisfying signatory requirements for reports (see Subsection 7.7.2), a person is a duly authorized representative only if:

a) the authorization is made in writing by a person described in Subsection 7.7.1;

b) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated site or activity such as the position of plant manager, 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 written authorization is submitted to the director or an appropriate city official. The written authorization shall be a written document including the name of the newly authorized person and the contact information (title, mailing address, phone number, fax number and E-mail address) for the authorized person. The written authorization shall be signed by the newly authorized person accepting responsibility and by the person described in Subsection 7.7.1 delegating the authority.

7.7.4 Changes to authorization

If an authorization under Subsections 7.7.1 or 7.7.3 (Duly authorized representative) is no longer accurate because a different individual or position has responsibility as the primary or secondary permittee, but the company name (permittee name) remains the same, a new NOI and SWPPP certification shall be submitted to the City of Knoxville Stormwater Engineering Division and signed by the new party who meets signatory authority satisfying the requirements of Subsections 7.7.1 or 7.7.3. The NOI shall include the new individual’s information (title, mailing address, phone number, fax number and E-mail address), the existing tracking number and the project name.

7.7.5 Signatory requirements for primary permittees

Primary permittees required to sign an NOI and SWPPP because they meet the definition of an operator (see Subsection 2.2) shall sign the following certification statement on the NOI and on the SWPPP:

“I certify under penalty of law that this document and all attachments were prepared by me, or under my direction or supervision. The submitted information 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. As specified in Tennessee Code Annotated Section 39-16-702(a)(4), this declaration is made under penalty of perjury.”

7.7.6 Signatory requirements for secondary permittees

Secondary permittees required to sign an NOI and SWPPP because they meet the definition of an operator but who are not primarily responsible for preparing an NOI and SWPPP, shall sign the following certification statement on the NOI and on the SWPPP:

“I certify under penalty of law that I have reviewed this document, any attachments, and the SWPPP referenced above. Based on my inquiry of the construction site owner/developer identified above and/or my inquiry of the person directly responsible for assembling this NOI and SWPPP, I believe the information submitted is accurate. I am aware that this NOI, if approved, makes the above-described construction activity subject to NPDES permit number TNR100000, and that certain of my activities on-site are thereby regulated. I am aware that there are significant penalties, including the possibility of fine and imprisonment for knowing violations and for failure to comply with these permit requirements. As specified in Tennessee Code Annotated Section 39-16-702(a)(4), this declaration is made under penalty of perjury.”

7.8 PENALTIES FOR FALSIFICATION OF REPORTS

Knowingly making any false statement on any report or form required by this policy may result in the imposition of criminal penalties as provided for in Section 309 of the Clean Water Act and in T.C.A. §69-3-115 of the Tennessee Water Quality Control Act.
7.9 OIL AND HAZARDOUS SUBSTANCE LIABILITY

Nothing in this policy shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to Section 311 of the Clean Water Act or Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

7.10 PROPERTY RIGHTS

The issuance of this policy does not convey any property rights of any sort, nor any exclusive privileges, or does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations. The issuance of this policy does not authorize trespassing or discharges of stormwater or non-stormwater across private property.

7.11 SEVERABILITY

The provisions of this policy are severable, and if any provision of this permit, or the application of any provision of this policy to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this policy shall not be affected thereby.

7.12 INDIVIDUAL PERMIT

7.12.1 Required coverage

The director may require any operator/developer covered by this permit to apply for and obtain an individual NPDES permit (from TDEC) to ensure adequate protection of designated uses of a receiving stream. Any interested person may petition the director in writing to take action under this paragraph, but must include in their petition the justification for such an action. Where the director requires a discharger authorized to discharge under this permit to apply for an individual NPDES permit, the director shall notify the discharger in writing that an individual permit application is required. This notification will include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the discharger to file the application and a statement that coverage under this general permit shall terminate upon the effective date of an individual NPDES permit; or denial of coverage under an individual permit. The notification may require stabilization of the site and suspend coverage under this general permit until the individual permit is issued. Individual permit applications shall be submitted to TDEC. The director may grant additional time to submit the application upon request of the applicant. If a discharger fails to submit in a timely manner an individual NPDES permit application as required by the director under this paragraph, then the applicability of this permit to the discharger will be terminated at the end of the day specified by the director for application submittal.

If the decision to require an individual NPDES permit precedes the issuance of coverage under this general permit, earth disturbing activities cannot begin until the individual permit is issued.

7.12.2 Permittee coverage

Any discharger authorized by this policy may request to be excluded from the coverage of this policy by applying for an individual permit. Any discharger that knowingly cannot abide by the terms and conditions of this policy must apply for an individual permit. In such cases, the permittee shall submit an individual application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to the appropriate TDEC’s Environmental Field Office. The request may be granted by issuance
of an individual permit, or alternative general permit, if the reasons cited by the permittee are adequate to support the request.

7.12.3 General permit termination

When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or the discharger is authorized to discharge under an alternative NPDES general permit, the applicability of this policy to the discharger is terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this policy to the individual NPDES permittee is terminated on the date of such denial, unless otherwise specified by the director. Coverage under the Tennessee Multi-Sector General Permit for the Discharge of Stormwater from an Industrial Activity (TMSP) will not be considered as an alternative general permit under this section without being specified by the director.

7.13 OTHER, NON-STORMWATER, PROGRAM REQUIREMENTS

No condition of this policy shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

7.14 PROPER OPERATION AND MAINTENANCE

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related equipment) which are installed or used by the permittee to achieve compliance with the conditions of this policy and with the requirements of stormwater pollution prevention plans.

Proper operation and maintenance also includes adequate laboratory quality assurance and quality control procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee, when determined by the permittee or the department to be necessary to achieve compliance with the conditions of the permit.

7.15 INSPECTION AND ENTRY

The permittee shall allow authorized representatives of the Environmental Protection Agency, the director or an authorized representative of the commissioner of TDEC, or, in the case of a construction site which discharges through a municipal separate storm sewer, an authorized representative of the MS4 receiving the discharge, upon the presentation of credentials and other documents as may be required by law:

a) to enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

b) to have access to and copy at reasonable times, any records that must be kept under the conditions of this permit; and

c) to inspect any facilities or equipment (including monitoring and control equipment).

7.16 POLICY ACTIONS

This policy may be issued, modified, revoked, reissued or terminated for cause in accordance with this policy and the applicable requirements of T.C.A. § 69-3-108. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
SECTION 8 REQUIREMENTS FOR TERMINATION OF COVERAGE

8.1 TERMINATION OF DEVELOPER AND BUILDER COVERAGE

8.1.1 Termination process for primary permittees

Primary permittees wishing to terminate coverage under this permit must submit a completed NOT form provided in Appendix B of this policy. Primary permittees who abandon a site and fail to submit the NOT will be in violation of this policy. The department can terminate coverage under the CGP if the NOT is not submitted within five years of the “estimated end date” (as identified on the NOI). Signs notifying the public of the construction activity shall be in place until the NOT form has been submitted. Primary permittees may terminate permit coverage only if the conditions described below occur at the site:

a) All earth-disturbing activities and, if applicable, construction support activities permitted under Subsection 1.2.2 at the site are complete and the following requirements are met:

i. For any areas that were disturbed during construction, are not covered by permanent structures and over which the permittee had control during the construction activities; the requirements for final vegetation or non-vegetative stabilization described in 3.5.3.2 are met.

ii. The permittee has removed and properly disposed of all construction materials; and, waste and waste handling devices. The permittee has removed all equipment and vehicles that were used during construction, unless they are intended for long-term use following termination of permit coverage.

iii. The permittee has removed all stormwater controls that were installed and maintained during construction, except those that are intended for long-term use following termination of permit coverage.

iv. The permittee has identified who is responsible for ongoing maintenance of any stormwater controls left on the site for long-term use following termination of permit coverage.

b) The permittee has transferred control of all areas of the site for which he is responsible (including, but not limited to, infrastructure, common areas, stormwater drainage structures, sediment control basin) under this permit to another operator, and that operator has submitted an NOI and obtained coverage under this permit.

c) The permittee obtains coverage under an individual or alternative general NPDES permit.

8.1.2 NOT review

The department may review NOTs for completeness and accuracy and, when necessary, investigate the proposed site for which the NOT was submitted. Coverage under this CGP is terminated when the owner/operator is notified by the department that coverage is terminated.

The department retains the right to deny termination of coverage under this general permit upon receipt of the NOT. If the department has information indicating that the permit coverage is not eligible for termination, written notification will be provided that permit coverage has not been terminated. The
notification will include a summary of existing deficiencies. When the site meets the termination criteria, the NOT should be re-submitted.

If any permittee files for bankruptcy or the site is foreclosed on by the lender, the permittee should notify the department of the situation so that the department may assess the site to determine if permit coverage should be obtained by any other person or whether other action is needed.

8.2 TERMINATION OF BUILDER AND CONTRACTOR COVERAGE

8.2.1 Termination process for secondary permittees

Secondary permittees must request termination of coverage under this policy by submitting an NOT when they are no longer an operator at the construction site. Secondary permittees receive coverage under this permit, but are not normally mailed a NOC. Consequently, the department may, but is not required to, notify secondary permittees that their notice of termination has been received. If the department has reason to believe that the secondary permittees’ NOT should not have been submitted, the department will deny the secondary permittees’ NOT in writing, with specific reasons as to why the NOT should not have been submitted.

8.3 NOT CERTIFICATION

The NOT and the following certification must be signed in accordance with Subsection 7.7 of this permit:

“I certify under penalty of law that either: (a) all stormwater discharges associated with construction activity from the portion of the identified facility where I was an operator have ceased or have been eliminated or (b) I am no longer an operator at the construction site. I understand that by submitting this notice of termination, I am no longer authorized to discharge stormwater associated with construction activity under this general permit, and that discharging pollutants in stormwater associated with construction activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by a NPDES permit. I also understand that the submittal of this notice of termination does not release an operator from liability for any violations of this permit or the Clean Water Act. As specified in Tennessee Code Annotated Section 39-16-702(a) (4), this declaration is made under penalty of perjury.”

8.4 WHERE TO SUBMIT AN NOT

The NOT shall be submitted to the City of Knoxville Stormwater Engineering Division or Environmental Field Office (EFO) which issued the NOC to the primary permittee. The appropriate permit tracking number must be clearly printed on the form.
SECTION 9 AQUATIC RESOURCE ALTERATION PERMITS (ARAP)

Alterations to channels or waterbodies (streams, wetlands and/or other waters of the state) that are contained on, traverse through or are adjacent to the construction site, may require an Aquatic Resources Alteration Permit (ARAP) (http://www.tn.gov/environment/article/permit-wateraquatic-resource-alteration-permit). It is the responsibility of the developer to provide a determination of the water’s status. This determination must be conducted in accordance with Tennessee’s standard operating procedures for hydrologic determinations set forth at Rule 0400-0-03.05(9). The permittee can make an assumption that streams/wetlands are present at the site in order to expedite the permit process. In some cases, issuance of coverage under the CGP may be delayed or withheld if the appropriate ARAP has not been obtained. At a minimum, any delay in obtaining an ARAP for water body alteration associated with the proposed project must be adequately addressed in the SWPPP prior to issuance of an NOC. Failure to obtain an ARAP prior to any actual alteration may result in enforcement action for the unauthorized alteration.

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3 The EPA considers inventorying a site’s natural features is a technique called fingerprinting. More info can be found in EPA’s document - EPA’s Developing Your SWPPP – A Guide for Construction Sites (EPA-833-R-06-004 May 2007).
SECTION 10 DEFINITIONS

5-YEAR FREQUENCY STORM – A storm event with a twenty (20) percent chance of being equaled or exceeded in any given year. Defined to be three and seven-tenths (3.7) inches in twenty-four (24) hours or other such magnitude the Director shall establish based upon scientific and engineering information.

BEST MANAGEMENT PRACTICES (BMP) – Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

BORROW PIT – An excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this permit.

BUFFER ZONE – See “Construction Riparian Buffer Zone” or “Riparian Buffer Zone”

CLEARING – In the definition of discharges associated with construction activity, typically refers to removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also refer to wide area land disturbance in anticipation of non-construction activities; for instance, clearing forested land in order to convert forestland to pasture for wildlife management purposes. Clearing, grading and excavation do not refer to clearing of vegetation along existing or new roadways, highways, dams or power lines for sight distance or other maintenance and/or safety concerns, or cold planning, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces. The clearing of land for agricultural purposes is exempt from federal stormwater NPDES permitting in accordance with Section 401(1)(1) of the 1987 Water Quality Act and state stormwater NPDES permitting in accordance with the Tennessee Water Quality Control Act of 1977 (T.C.A. 69-3-101 et seq.).

COMMENCEMENT OF CONSTRUCTION – The initial disturbance of soils associated with clearing, grading, excavating or other construction activities.

COMMON PLAN OF DEVELOPMENT OR SALE – Any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.

CONSTRUCTION RIPARIAN BUFFER ZONE (CRBZ) – A temporary BMP that is defined as a strip of dense undisturbed perennial native vegetation, either original or re-established, that borders streams and rivers, ponds and lakes, wetlands, and seeps. CRBZs are established for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the upland area and reaching surface waters. CRBZs are most effective when stormwater runoff is flowing into and through the buffer zone as shallow sheet flow, rather than in concentrated form such as in channels, gullies, or wet weather conveyances. Therefore, it is critical that the design of any development include management practices, to the maximum extent practical, that will result in stormwater runoff flowing into and through the buffer zone as shallow sheet flow. CRBZs are established for the primary purpose of protecting water quality and maintaining a healthy aquatic ecosystem in receiving waters.
CONTROL MEASURE – As used in this permit, refers to any Best Management Practice (BMP) or other method used to prevent or reduce the discharge of pollutants to waters of the state.

CWA – Clean Water Act of 1977 or the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.)

DEPARTMENT – The City of Knoxville Stormwater Engineering Division

DIRECTOR – The director, or authorized representative, of the City of Knoxville Department of Engineering.

DISCHARGE OF STORMWATER ASSOCIATED WITH CONSTRUCTION ACTIVITY – As used in this permit, refers to stormwater point source discharges from areas where soil disturbing activities (e.g., clearing, grading, excavation, etc.), or construction materials or equipment storage or maintenance (e.g., earth fill piles, fueling, waste material etc.) are located.

DISTURBED AREA – Any portion of a site that has been altered from existing conditions, including but not limited to the following: providing access to a site, clearing of vegetation, grading, earth moving, providing utilities and other services such as parking facilities, stormwater management and erosion control systems, potable water and wastewater systems, altering land forms, or construction or demolition of a structure on the land.

FINAL STABILIZATION – All soil disturbing activities at the site have been completed and one of the three following criteria is met:

a. A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a uniform density of at least 70 percent of the (preferably) native vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, and all slopes and channels have been permanently stabilized against erosion, or

b. Equivalent permanent stabilization measures (such as the use of riprap; permanent geotextiles, hardened surface materials including concrete, asphalt, gabion baskets, or Reno mattresses) have been employed, or

c. For construction projects on land used for agricultural or silvicultural purposes, final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural or silvicultural use.

ELECTRONIC SIGNATURE – symbols or other data in digital form attached to an electronically transmitted document as verification of the sender’s intent to sign the document.

EXCEPTIONAL TENNESSEE WATERS – Surface waters of the State of Tennessee that satisfy characteristics of exceptional Tennessee waters as listed Chapter 1200-4-3-.06 of the official compilation - Rules and Regulations of the State of Tennessee. Characteristics include waters designated by the Water Quality Control Board as Outstanding National Resource Waters (ONRW); waters that provide habitat for ecologically significant populations of certain aquatic or semi-aquatic plants or animals; waters that provide specialized recreational opportunities; waters that possess outstanding scenic or geologic values; or waters where existing conditions are better than water quality standards.

IMPAIRED WATERS – See “Waters with Unavailable Parameters”
IMPROVED SINKHOLE – A natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under the Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).

INSPECTOR – A person with following qualifications:

a) a valid certification from the “Fundamentals of Erosion Prevention and Sediment Control Level I” course,

b) a licensed professional engineer or landscape architect, c) a Certified Professional in Erosion and Sediment Control (CPESC), or

d) successfully completed the “Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites” course

An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:

a) oversee the requirements of other construction-related permits, such as an Aquatic Resources Alteration Permit (ARAP) or Corps of Engineers permit for construction activities in or around waters of the state.

b) update field SWPPPs.

c) conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed.

d) inform the permit holder of activities that may be necessary to gain or remain in compliance with the CGP and other environmental permits.

LINEAR PROJECT – A land disturbing activity as conducted by an underground/overhead utility or highway department, including but not limited to any cable line or wire for the transmission of electrical energy; any conveyance pipeline for transportation of gaseous or liquid substance; any cable line or wire for communications; or any other energy resource transmission ROW or utility infrastructure, e.g., roads and highways. Activities include the construction and installation of these utilities within a corridor. Linear project activities also include the construction of access roads, staging areas, and borrow/spoil sites associated with the linear project. Land disturbance specific to the development of a residential and/or commercial subdivision or high-rise structures is not considered a linear project.

MONTHLY – Refers to calendar months.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) – Is defined at 40 CFR §122.26(b)(8) to mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

a) 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;

b) designed or used for collecting or conveying stormwater;

c) not a combined sewer; and

d) not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2

NOTICE OF INTENT (NOI) – Formal notice provided to the department by the operator/developer to be covered by this policy (see Section 2 of this policy.)

NOTICE OF TERMINATION (NOT) – Formal notice provided to the department by the operator/developer requesting termination of coverage by this policy (see Section 8 of this policy).

OPERATOR – For the purpose of this policy and in the context of stormwater associated with construction activity, means any person associated with a construction project that meets either of the following two criteria:

a) this person has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person is typically the owner or developer of the project or a portion of the project, and is considered the primary permittee; or

b) this person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions. This person is typically a contractor or a commercial builder who is hired by the primary permittee, and is considered a secondary permittee.

It is anticipated that at different phases of a construction project, different types of parties may satisfy the definition of “operator.”

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 introduction of pollutants from non-point-source agricultural and silvicultural activities, including stormwater runoff from orchards, cultivated crops, pastures, range lands, and forest lands or return flows from irrigated agriculture or agricultural stormwater runoff.

QUALIFYING LOCAL PROGRAM (QLP) – Is one that includes, as defined in 40 CFR 122.44(s):

a) requirements for construction site operators to implement appropriate erosion and sediment control best management practices;

b) requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

c) requirements for construction site operators to develop and implement a stormwater pollution
prevention plan. (A stormwater pollution prevention plan includes site descriptions, descriptions of appropriate control measures, copies of approved State, Tribal or local requirements, maintenance procedures, inspection procedures, and identification of non-stormwater discharges); and

d) requirements to submit a site plan for review that incorporates consideration of potential water quality impacts

QUALITY ASSURANCE SITE ASSESSMENT – A documented site inspection to verify the functionality and performance of the SWPPP and for determining if construction, operation and maintenance accurately comply with policy requirements, as presented in the narrative, engineering specifications; maps, plans and drawings; and details for erosion prevention, sediment control and stormwater management.

REGISTERED ENGINEER OR LANDSCAPE ARCHITECT – An engineer or landscape architect certified and registered by the State Board of Architectural and Engineer Examiners pursuant to Section 62-202, Tennessee Code Annotated, to practice in Tennessee.

RIPARIAN BUFFER ZONE (RBZ) – A permanent BMP that is defined as a strip of dense undisturbed perennial native vegetation, either original or re-established, that borders streams and rivers, ponds and lakes, wetlands, and seeps. RBZs are established for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the upland area and reaching surface waters. RBZs are most effective when stormwater runoff is flowing into and through the buffer zone as shallow sheet flow, rather than in concentrated form such as in channels, gullies, or wet weather conveyances. Therefore, it is critical that the design of any development include management practices, to the maximum extent practical, that will result in stormwater runoff flowing into and through the buffer zone as shallow sheet flow. RBZs are established for the primary purpose of protecting water quality and maintaining a healthy aquatic ecosystem in receiving waters.

RUNOFF COEFFICIENT – The fraction of total rainfall that will appear at the conveyance as runoff. Runoff coefficient is also defined as the ratio of the amount of water that is NOT absorbed by the surface to the total amount of water that falls during a rainstorm.

SEDIMENT – Solid material, both inorganic (mineral) and organic, that is in suspension, is being transported, or has been moved from the site of origin by wind, water, gravity, or ice as a product of erosion.

SEDIMENT BASIN – A temporary basin consisting of an embankment constructed across a wet weather conveyance or an excavation that creates a basin or by a combination of both. A sediment basin typically consists of a forebay cell, dam, impoundment, permanent pool, primary spillway, secondary or emergency spillway, and surface dewatering device. The size and shape of the basin depends on the location, size of drainage area, incoming runoff volume and peak flow, soil type and particle size, land cover, and receiving stream classification (Waters with Unavailable Parameters (impaired) or Exceptional TN Waters).

SEDIMENTATION – the action or process of forming or depositing sediment.

SIGNIFICANT CONTRIBUTOR OF POLLUTANTS TO WATERS OF THE STATE – Any discharge containing pollutants that are reasonably expected to cause or contribute to an impairment of receiving stream water quality or designated uses.

SOIL – The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of plants.

STEEP SLOPE – A natural (or created) slope of 35% grade or greater. Designers of sites with steep slopes
must pay attention to stormwater management in the SWPPP to engineer runoff non-erosively around or over a steep slope. In addition, site managers should focus on erosion prevention on the slope(s) and stabilize the slope(s) as soon as practicable to prevent slope failure and/or sediment discharges from the project.

STORMWATER – rainfall runoff, snow melt runoff, and surface runoff and drainage.

STORMWATER ASSOCIATED WITH INDUSTRIAL ACTIVITY – Is defined at 40 CFR 122.26(b)(14) and incorporated here by reference. Most relevant to this policy is 40 CFR 122.26(b)(14)(x), which relates to construction activity including clearing, grading, filling and excavation activities (including borrow pits containing erodible material). Disturbance of soil for the purpose of crop production is exempted from permit requirements, but stormwater discharges from agriculture-related activities which involve construction of structures (e.g., barn construction, road construction, pond construction, etc.) are considered associated with industrial activity. Maintenance performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility, e.g. re-clearing, minor excavation performed around an existing structure necessary for maintenance or repair, and repaving of an existing road, is not considered a construction activity for the purpose of this permit.

STORMWATER DISCHARGE-RELATED ACTIVITIES – Activities which cause, contribute to, or result in point source stormwater pollutant discharges, including but not limited to: excavation, site development, grading and other surface disturbance activities; and measures to control stormwater including the siting, construction and operation of best management practices (BMPs) to control, reduce or prevent stormwater pollution.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) – A written plan required by this policy that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the Tennessee Erosion and Sediment Control Handbook. The handbook is designed to provide information to planners, developers, engineers, and contractors on the proper selection, installation, and maintenance of BMPs. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations.

STREAM – Surface waters that are not considered a wet weather conveyance. Therefore, as used in this permit, “stream” includes lakes, wetlands and other non-linear surface waters.

TAKE OF AN ENDANGERED SPECIES – To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct with an endangered species.

TEMPORARY STABILIZATION – When vegetation and/or a non-erodible surface have been established on the area of disturbance and construction activity has temporarily ceased. Under certain conditions, temporary stabilization is required when construction activities temporarily cease. However, if future construction activity is planned, permit coverage continues.

TOTAL MAXIMUM DAILY LOAD (TMDL) – The sum of the individual wasteload allocations for point sources and load allocations for nonpoint sources and natural background (40 CFR 130.2(l)). TMDL is a study that: quantifies the amount of a pollutant in a stream, identifies the sources of the pollutant, and recommends regulatory or other actions that may need to be taken in order for the stream to cease being...
polluted. Some of the actions that might be taken are:

1) Re-allocation of limits on the sources of pollutants documented as impacting streams. It might be necessary to lower the amount of pollutants being discharged under NPDES permits or to require the installation of other control measures, if necessary, to ensure that water quality standards will be met.

2) For sources over which the department does not have regulatory authority, such as ordinary agricultural or forestry activities, provide information and technical assistance to other state and federal agencies that work directly with these groups to install appropriate Best Management Practices (BMPs).

Even for impacted streams, TMDL development is not considered appropriate for all bodies of water: if enforcement has already been taken and a compliance schedule has been developed; or if best management practices have already been installed for non-regulated activities, the TMDL is considered not applicable. In cases involving pollution sources in other states, the recommendation may be that another state or EPA perform the TMDL. TMDLs can also be described by the following equation:

\[ \text{TMDL} = \text{sum of non-point sources (LA)} + \text{sum of point sources (WLA)} + \text{margin of safety} \]

A list of completed TMDLs that have been approved by EPA can be found at this web site: [http://tn.gov/environment/article/wr-ws-tennessees-total-maximum-daily-load-tmdl-program](http://tn.gov/environment/article/wr-ws-tennessees-total-maximum-daily-load-tmdl-program).

**TREATMENT CHEMICALS** – Polymers, flocculants or other chemicals used to reduce turbidity in stormwater discharges by chemically bonding to suspended silts and other soil materials and causing them to bind together and settle out. Common examples of anionic treatment chemicals are chitosan and anionic PAM.

**TURBIDITY** – The cloudiness or haziness of a fluid caused by individual particles (suspended solids) that are generally invisible to the naked eye, similar to smoke in air.

**WATERS OR WATERS OF THE STATE** – Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

**WASTE SITE** – An area where material from a construction site is disposed of. When the material is erodible, such as soil, the site must be treated as a construction site.

**WATERS WITH UNAVAILABLE PARAMETERS (IMPAIRED)** – (unavailable conditions waters) Any segment of surface waters that has been identified by the TDEC as failing to support one or more classified uses. For the purpose of this permit, pollutants of concern include, but are not limited to: siltation (silt/sediment) and habitat alterations. Based on the most recent assessment information available to staff, the department will notify applicants and permittees if their discharge is into, or is affecting, Waters with Unavailable Parameters (impaired) waters. Resources to be used in making this determination include biennial compilations of Waters with Unavailable Parameters (impaired) waters, databases of assessment information, updated GIS coverages ([http://tnmap.tn.gov/wpc/](http://tnmap.tn.gov/wpc/)), and the results of recent field surveys. GIS coverages of the streams and lakes not meeting water quality standards, plus the biennial list of Waters with Unavailable Parameters (impaired) waters, can be found at [http://tn.gov/environment/topic/wr-wq-water-quality](http://tn.gov/environment/topic/wr-wq-water-quality).
WET WEATHER CONVEYANCES – Man-made or natural watercourses, including natural watercourses that have been modified by channelization, that meet the following:

a) the conveyance carries flow only in direct response to precipitation runoff in its immediate locality.

b) the conveyance’s channels are at all times above the ground water table.

c) the flow carried by the conveyance is not suitable for drinking water supplies.

d) hydrological and biological analyses indicate that, due to naturally occurring ephemeral or low flow under normal weather conditions, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Tennessee Rules, Chapter 0400-40-3-.04(3))
SECTION 11  LIST OF ACRONYMS

ARAP     Aquatic Resource Alteration Permit
BMP      Best Management Practice
CERCLA   Comprehensive Environmental Response, Compensation and Liability Act
CGP      Construction General Permit
COK      City of Knoxville
CRBZ     Construction Riparian Buffer Zone
CWA      Clean Water Act
EFO      Environmental Field Office
EPA      (U.S.) Environmental Protection Agency
EPSC     Erosion Prevention and Sediment Control
MS4      Municipal Separate Storm Sewer System
NOC      Notice of Coverage
NOI      Notice of Intent
NOT      Notice of Termination
NPDES    National Pollutant Discharge Elimination System
ONRW     Outstanding National Resource Waters
POTW     Publicly Owned Treatment Works
QLP      Qualifying Local Program
SWPPP    Stormwater Pollution Prevention Plan
TDEC     Tennessee Department of Environment and Conservation
TDOT     Tennessee Department of Transportation
TMDL     Total Maximum Daily Load
TMSP     Tennessee Multi-Sector General Permit for the Discharge of Stormwater from an Industrial Activity
TVA      Tennessee Valley Authority
TWQCA    Tennessee Water Quality Control Act
UIC      Underground Injection Control
USGS     United States Geological Survey

(End of body of policy.)