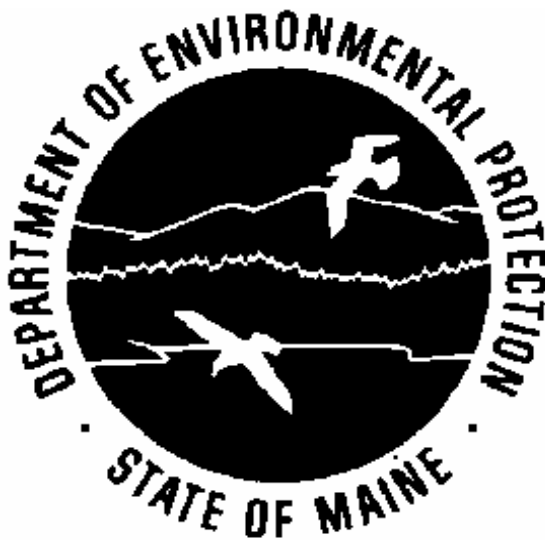
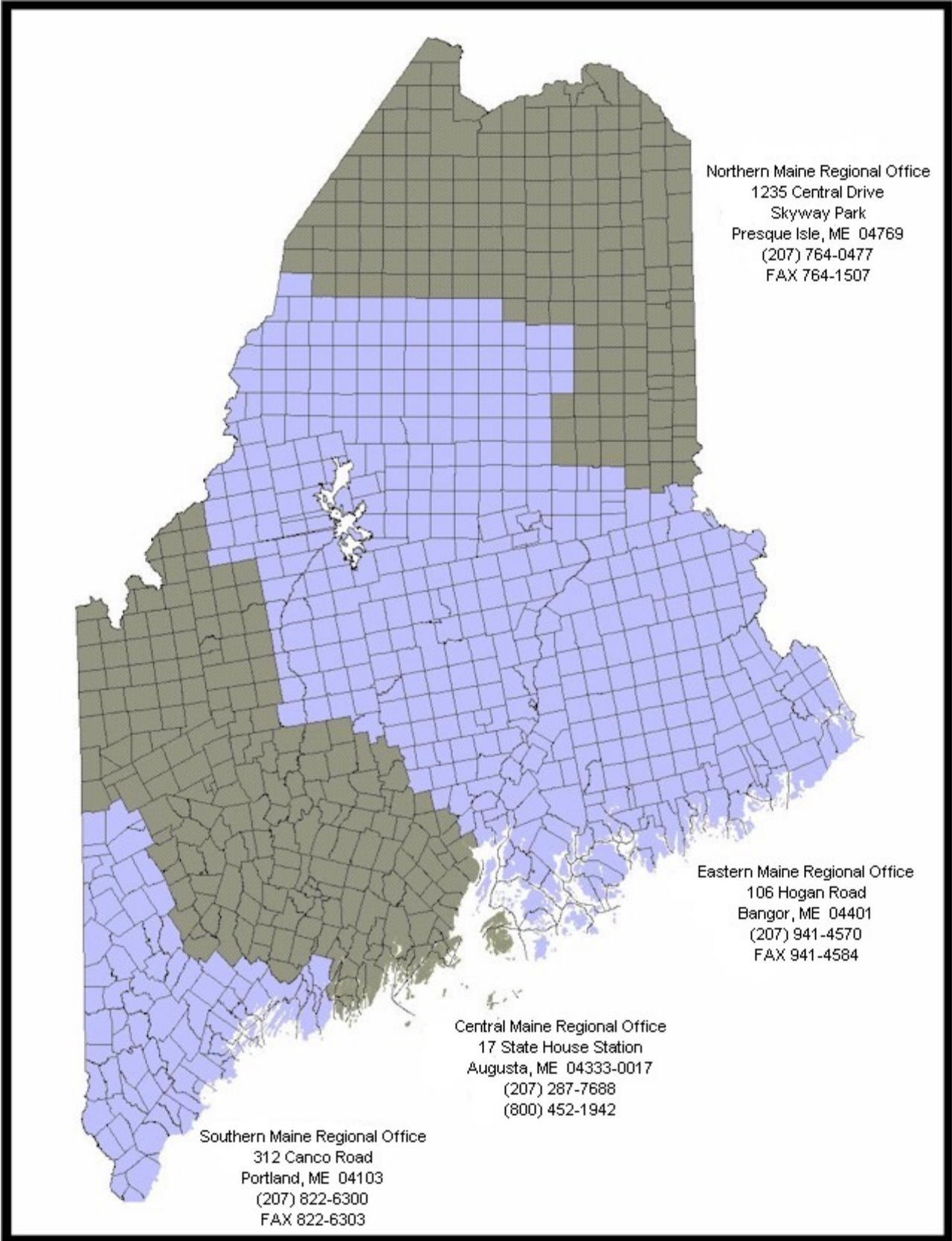


**STATE OF MAINE**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**General Permit – Construction Activity**

**Maine Pollutant Discharge Elimination System (MPDES)**  
**With Basic Performance Standards Appendices**





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**GENERAL PERMIT -- CONSTRUCTION ACTIVITY**  
Maine Pollutant Discharge Elimination System (MPDES)

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**PART I -- General Permit Coverage**

**A. General coverage of this permit.** This general permit authorizes the direct discharge (point source discharge) of stormwater associated with construction activity to waters of the state other than groundwater, provided that the discharge meets the requirements of this general permit and applicable provisions of Maine's waste discharge and water classification statutes and rules. This general permit also authorizes the direct discharge of stormwater from support activities. "Construction activity" is defined in Part II (page 2).

This general permit is effective July 21, 2006, and authorization to discharge under this general permit expires January 20, 2008. This general permit applies in those parts of the State of Maine for which the Department has received delegated authority under the federal NPDES program. See Part V (page 10), for a list of specific limitations on coverage of this general permit.

**B. Authority.** A permit is required for the direct or indirect discharge of pollutants to waters of the State.<sup>1</sup> A general permit may be issued for point discharges (direct discharges) of stormwater.<sup>2</sup> A violation of a condition or requirement of a general permit constitutes a violation of Maine's water quality laws and the federal Clean Water Act, and subjects the discharger to penalties under 38 M.R.S.A. § 349, and § 309 of the Clean Water Act. Nothing in this general permit is intended to limit the Department's authority under the waste discharge and water classification statutes or rules. This general permit does not affect requirements under other applicable Maine statutes such as Site Location of Development (Site Law), Stormwater Management, Land Use Regulation Commission (LURC), and Natural Resources Protection (NRPA).

**C. Continuation of expired General Permit.** If this permit is not reissued, revoked or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and effect. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

<sup>1</sup> See 38 M.R.S.A. § 413.

<sup>2</sup> See 06-096 CMR 529(2)(a)(2)(i).

1. Reissuance or replacement of this general permit, at which time the permittee must comply with the notice of intent conditions of the new permit to maintain authorization to discharge; or
2. The permittee's submittal of a Notice of Termination; or
3. Issuance of an individual permit for the permittee's discharges; or
4. A formal permit decision by the Director not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or individual permit.

This general permit does not prevent a municipality from adopting stricter standards than contained in this general permit, or in state or federal law.

## **PART II -- Definitions**

The following terms have the following meanings when used in this general permit. Additional definitions are found in 06-096 CMR 520 and in the waste discharge and classification laws.

**A. Construction activity.** "Construction activity" or "activity" means:

1. Construction activity including one acre or more of disturbed area, or activity with less than one acre of total land area that is part of a common plan of development or sale, if the common plan of development or sale will ultimately disturb equal to or greater than one acre; or
2. Any other construction activity designated by the Department based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the State.

Note: Based upon Maine's soils, topography, and extensive water resources, the Department has determined that the great majority of construction activities disturbing one acre or more will result in discernable concentrated flows (direct discharges) to waters of the state.

**B. Common plan of development or sale.** A "common plan of development or sale" means a subdivision as determined by the Land Use Regulation Commission (LURC), or a subdivision under municipal law as determined by the municipality where the subdivision is located.

**C. Department.** "Department" means the State of Maine Department of Environmental Protection.

**D. Direct discharge.** "Direct discharge" or "point source" means 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 or vessel or other floating craft, from which pollutants are or may be discharged.<sup>3</sup>

**E. Direct watershed of a waterbody or wetland.** "Direct watershed of a waterbody or wetland" is the land area that drains, via overland flow, natural or man-made drainage systems, or waterbodies or wetlands, to a given waterbody or wetland without first passing through an upstream waterbody classified as GPA.

**F. Disturbed area.** "Disturbed area" is clearing, grading and excavation, which means all the land areas that are stripped, graded, grubbed, filled, or excavated at any time during the site preparation or removing vegetation for, or construction of, a project. "Disturbed area" does not include routine

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<sup>3</sup> 38 MRSA § 466(5) (definition of "direct discharge") and 06-096 CMR 520 (definition of "point source").

maintenance, but does include redevelopment and new impervious areas. "Routine maintenance" is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving an impervious gravel surface while maintaining the original line and grade, hydraulic capacity and original purpose of the facility is considered *routine* maintenance. Cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered "disturbed area".

- G. Drainageway.** "Drainageway" is a natural or man-made channel or course within which and from which surface discharge of water may occur. Drainageways include, but are not limited to rivers, streams and brooks (whether intermittent or perennial), swales, ditches, pipes, culverts, and wetlands with localized discharge of water.
- H. Impaired waterbody.** An "impaired waterbody" means a waterbody that is not attaining water quality criteria or standards, as determined by the Department and listed in Chapter 502.<sup>4</sup>
- 1. Best currently available data.** The Department may use the best currently available data to determine the status of a waterbody, rather than relying upon the list published in Chapter 502, Direct Watersheds of Lakes Most at Risk from New Development, and Urban Impaired Streams, when the activity itself may have caused or contributed to the impairment, or when the Department reviews an application for a permit such as an individual Waste Discharge license or Site Law permit.
- I. Notice of Intent ("NOI").** "Notice of Intent or "NOI" means a notification of intent to seek coverage under this general permit made by the applicant to the Department on a notification form provided by the Department.
- J. Notice of Termination ("NOT").** "Notice of Termination" or "NOT" means a notification of intent to end coverage under this general permit on a form provided by the Department.
- K. Person.** "Person" means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.<sup>5</sup>
- L. Stormwater.** "Stormwater" means the part of precipitation, including runoff from rain or melting ice and snow that flows across the surface as sheet flow, shallow concentrated flow, or in drainageways. "Stormwater" has the same meaning as "storm water".
- M. Stream.** "Stream" means a river, stream or brook as defined in the Natural Resources Protection Act at 38 M.R.S.A. § 480-B.
- N. Support activities.** "Support activities" means support activities associated with a construction activity (e.g. concrete or asphalt batch plants, equipment storage yards, material storage areas, excavated material disposal areas, borrow areas) provided the following requirements are met.
- 1. Direct relationship.** The support activity is directly related to a construction site that is required to have waste discharge permit coverage for discharges of storm water associated with construction activity.
- 2. Type of operation.** The support activity is not a commercial operation serving multiple unrelated construction projects by different persons, and does not operate beyond the completion of the construction activity at the last construction project it supports.

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<sup>4</sup> See 06-096 CMR 502

<sup>5</sup> See 38 M.R.S.A. § 361-A(4).

### **PART III -- Requirements**

Part III describes the requirements for obtaining authorization under this general permit. See Part IV for general submission requirements and procedures related to Notices of Intent (NOIs) and Notices of Termination (NOTs).

A person may not construct or cause to be constructed or operate or cause to be operated or, in the case of a common plan of development or sale (subdivision), sell or lease, offer for sale or lease or cause to be sold or leased any area affected by construction activity without obtaining approval from the Department. A person having an interest in or undertaking an activity on a parcel of land affected by this general permit may not act contrary to this general permit.

**A. Construction activity (other than a common plan of development or sale).** Construction activity including one acre or more of disturbed area on the parcel, or other construction activity designated by the Department, must meet the following requirements.

1. Submit NOI and NOT.
2. Meet the standards in Appendices A-C of this general permit.
3. Erosion and sedimentation control (ESC) plan development and maintenance. This plan demonstrates how the standards in Appendix A will be met. An ESC plan is required pursuant to the Site Law and this general permit, however additional requirements may apply pursuant to the Site Law. See Part III (D) concerning referencing a plan submitted as part of a Site Law application.

**B. Common plan of development or sale.** A common plan of development or sale must meet the following requirements.

1. **Site Law, Stormwater, or LURC.** A common plan of development or sale is considered to meet the requirements of this general permit if:
  - a. A Site Law, Stormwater (38 M.R.S.A. § 420-D), or LURC permit is required, and the requirements of Part III (A) are met; and
  - b. If a Stormwater permit is required, the requirements of Part III(A) are also met on all associated lots in the subdivision, as determined by the Department.

The Department will assume that one acre of disturbed area will be created per 3 lots (1/3 ac. per lot), unless the person proposing the common plan of development or sale provides information concerning actual disturbed area.

2. **Other.** If the project does not require a Site Law, Stormwater, or LURC permit, and is not located within an area subject to the jurisdiction of LURC, then the project must meet the standards of the Maine Erosion and Sedimentation Control Law. An NOI is not required.

A lot buyer or subsequent transferee within a common plan of development or sale must submit an individual NOI if he or she proposes a construction activity as defined at Part II (A), regardless of whether the developer has filed an NOI.

The standards apply to the lots in the subdivision as well as associated facilities such as roads, pads, and ponds.

Note: The LURC Development Law only applies to areas of the state administered by the Land Use Regulation Commission (LURC). The Maine Site Law (in regard to subdivisions), Erosion and Sedimentation Control Law, and Stormwater Management Law, apply to projects or portions of projects outside the jurisdiction of LURC.

- C. **Total maximum daily load (TMDL).** If the waterbody to which a direct discharge drains is impaired and has an EPA approved TMDL, then the discharge must be consistent with any waste load allocation (WLA) contained in the TMDL and any implementation plan.
- D. **ESC plan.** Material submitted with an application for a Site Law or Stormwater Management Law permit may be referenced to the extent it substantively addresses the standards in Appendix A. If all the standards are not addressed, supplementary material must be provided with the NOI. If an applicant wishes the Department to rely in whole or part on a submission that is part of a Site Law or Stormwater Management Law application, the applicant should submit a letter with the NOI describing the previous submission and the extent to which it should be relied upon, and listing the standards addressed by any supplementary material.

#### **PART IV. Procedure**

- A. **Notice of Intent (NOI).** When the applicant submits a notification form, NOI, he or she agrees to comply with the standards and requirements of this general permit. An NOI must be submitted to the Department with the appropriate fee.

- 1. **Processing of NOI.** An NOI must be reviewed and approved by the Department prior to beginning construction activity or causing soil disturbance except as provided in Part IV(K).

The NOI is deemed approved 14 calendar days after the Department receives the notification form, unless the Department approves the notification or finds the notification deficient prior to that date. Within the 14 day period, the Department may notify the applicant in writing or through verbal communication that the project is ineligible for coverage under this general permit, or that additional information is needed or further review is required. If the DEP does not inform the applicant that the notification is unacceptable within this 14-day period, the notification is deemed accepted by the Department and the applicant may proceed to carry out the activity

Activities that require a permit under the Site Location of Development or the Storm Water Management Acts may not proceed until any required permit under those laws is obtained. Any NOI and supplementary information required by this subsection should be submitted at the same time as any required Stormwater Management or Site Law application for the activity in order to avoid delays in processing. The NOI may not be filed before these applications. The Department may consolidate application materials with these or other programs. When application materials are consolidated, the review period for the NOI is extended to coincide with the review period of the other program.

- 2. **Submission.** Applicants for a Maine CGP must submit the notification form, fee and other information for the Department's review and approval. This information includes a location map, site plan, erosion and sedimentation plan, and photographs of the area to be developed. Also, if the project is located in Essential Habitat, approval from Department of Inland Fisheries and Wildlife will need to be submitted. A landowner or leasehold owner, or his or her authorized representative, must file the NOI using a form provided by the Department. The NOI must contain information specified by the Department that is listed in this subsection. The Department

may require the submission of additional information as necessary. Send the completed NOI form to the DEP office serving the area where the project is located. This general permit contains a map showing the municipalities served by the Department regional offices and the regional office mailing addresses.

- a. The legal name, address, telephone number, and any email address of the landowner or leasehold owner.
- b. The legal name, address, telephone number, and any email address of the agent or contractor.
- c. A narrative describing in detail how to get to and access the parcel and construction activities, and a USGS or similar map with the location marked.
- d. A narrative describing the project and its purpose.
- e. UTM Northing and UTM Easting (if known)
- f. The size of disturbed area proposed.
- g. Name of the receiving water(s) or if the discharge is through a municipal separate storm sewer system, the name of the municipal operator of the storm sewer.
- h. Signature of applicant (landowner or lessee) or authorized representative with documentation showing authorization. For signatory requirements, see 06-096 CMR 521(5).
- i. For any construction activity occurring within an essential habitat or that may violate protection guidelines, written approval of the activity from the Department of Inland Fisheries and Wildlife (IF&W). The applicant must follow any conditions stated in the IF&W approval.<sup>6</sup>

Note: Maps showing areas of essential habitat are available from the Department of Inland Fisheries and Wildlife regional headquarters, municipal offices, the Land Use Regulation Commission (or areas within LURC's jurisdiction) and DEP regional offices. If the activity is located in essential habitat, IF&W must be contacted to request and obtain a "certification of review and approval."

- B. Location map.** The Notification form must be accompanied by a photocopy of a portion of a 7.5 minute USGS topographic map or a DeLorme Atlas map showing the site's location and approximate property boundaries, if the size of the parcel and scale of the map allows it. A USGS topographic map can be useful for showing the general contour and topography of the project site.
- C. Site plan.** Submit a scaled plan showing, at a minimum, the locations of structures and roads, the extent of disturbed land, pre-construction site topography, post-construction site topography, on-site and adjacent surface waterbodies, and all erosion and sedimentation control measures to be used on the site. Such measures include, but are not limited to, sedimentation barriers, ditch lining, rip rap, and culvert inlet and outlet designs. Identify retained downgradient buffers, or explain in a narrative why such buffers will not be retained (see Pollution Prevention standard, Appendix A(1)). Identify protected natural resources, such as wetlands, streams, or high water line of ponds or coastal wetlands on the site plan. It is not necessary to have the plan professionally prepared. However, it must be legible and drawn to a scale that allows clear representation of distances and measurements on the plan.

An applicant may substitute the following information for surveyed pre-development and post-development site topography on the location plans:

1. the locations of high points on the site,
2. the locations of any ponds or other runoff storage depressions on the site,

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<sup>6</sup> A state agency may not license a project that will significantly alter habitat of any species designated as threatened or endangered, or violate protection guidelines, without a determination from IF&W. See 12 M.R.S.A. § 7755-A.



3. the locations and flow direction of any drainage ditches, brooks, or streams,
4. the locations of any catch basin inlets or culvert inlets, and
5. arrows showing the general direction(s) of overland drainage for the site.

**D. Erosion and Sedimentation Control plan.** In addition to a site plan, an erosion control plan must be included which contains, at a minimum, permanent stabilization measures to be taken (e.g. paving or planting vegetation), installation details of the erosion control measures proposed to be used, seeding and mulching rates, and a construction schedule with the proposed construction dates and timeframe for major earth moving and construction events. **This plan and its details may be included on the site plan instead of being a separate submission.**

An erosion and sedimentation control plan must be designed by a professional who is registered, licensed, or certified in a related land-use field, or by education, training, or experience is knowledgeable in erosion and sedimentation control, or has received specific training in erosion and sedimentation control at a department-sponsored erosion and sedimentation control workshop.

Note: A person who conducts, or causes to be conducted, an activity that involves filling, displacing or exposing soil or other earthen materials shall take measures to prevent unreasonable erosion of soil or sediment beyond the project site or into a protected natural resource as defined in 38 M.R.S.A. § 480-B. Sediment control measures must be in place before the activity begins. Measures must remain in place and functional until the site is permanently stabilized. Adequate and timely temporary and permanent stabilization measures must be taken. The site must be maintained to prevent unreasonable erosion and sedimentation. See 38 M.R.S.A § 420-C (in part). Other or additional standards may apply, under the Natural Resources Protection Act, to a project located in or adjacent to a protected natural resource.

**E. Photos.** Provide photographs of the project site that show the existing character and topography of the area proposed for development.

**F. Notice of Termination (NOT).** The permittee shall submit a Notice of Termination (NOT) on a form provided by the Department within 20 days of the completion of permanent stabilization or within 20 days of obtaining coverage under an alternative MEPDES permit. If the property is transferred and construction activity is ongoing, the permittee is not required to file an NOT if the new owner or lessee files an NOI to continue authorization under this general permit for a continuing discharge.

**1. Common plan of development or sale.** A person who has filed an NOI for a common plan of development or sale shall file an NOT as follows.

- a. For areas of the site over which the developer has control, the NOT must be filed after permanent stabilization has been completed.-
- b. For areas of the site over which the developer does not have control (ex. lots sold in an undeveloped or partially undeveloped state), the NOT must be filed after (i) temporary stabilization including perimeter controls for individual lots have been completed if the developer has done prep work (stripping or grading) on the lots, (ii) the developer has informed the lot buyers of the requirements of this general permit, and (iii) the developer has provided the buyers with copies of any erosion control plan, or portion of a plan applicable to the lots, required to be certified or provided to the Department under the requirements of this general permit.

A lot buyer within a common plan of development or sale is required to meet the standards of this general permit, except that residential lot buyers are not required to maintain inspection logs as provided in Appendix A(2).

2. **Timing.** A permittee's authorization to discharge under this permit terminates at midnight on the day the NOT is signed.
3. **Submission.** The NOT must include information specified by the Department, including the following:
  - a. The legal name, address, telephone number, and any email address of the landowner or leasehold owner.
  - b. The legal name, address, telephone number, of the agent or contractor.
  - c. Photographs showing the completed project and the affected area. Exception: a person filing an NOT for a common plan of development is not required to include photographs for disturbed areas created by lot buyers or lessees.
  - d. Signature of the permittee or authorized person together with documentation demonstrating authorization. If documentation has been previously submitted and is still current, it may be referenced.

**G. Mail/copy.** The notification forms must be sent to the DEP by certified mail (return receipt requested) or other service providing a record of DEP's receipt of the item to the sender, or hand delivered to the DEP and date stamped by the Department. The applicant must keep a copy of the notification forms and all materials provided to the Department.

#### **H. Retention of records**

1. **Documents.** The permittee shall retain copies of the ESC plan and any forms, submissions, reports, or other materials required by this general permit for a period of at least three years from the completion of permanent stabilization. This period may be extended by request of the Department.
2. **Accessibility.** Employees and agents of the Department may enter any property at reasonable hours in order to determine compliance.<sup>7</sup> The permittee shall retain a copy of the ESC plan and this general permit at the construction site or other location accessible to the Department, local government officials, and any operator of a municipal separate stormwater sewer receiving discharges from the site, from project initiation to permanent stabilization. The permittee shall ensure that a copy of the ESC plan and this general permit are available for the use of any contractors on the site undertaking work regulated by this general permit.

**I. Changes in the activity or owner/lessee.** Coverage under this general permit will be continued provided there are no changes in the discharge as described in the NOI and associated submissions. If any changes are proposed in the activity, the person having filed the NOI must notify the Department through the submission of updated information in writing, including submitting or obtaining certification for any revisions to an ESC plan required in Part III.

The updated information must be submitted with a new NOI if the permittee proposes to expand or relocate disturbed area of one acre or more beyond what was indicated in the original NOI, or to

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<sup>7</sup> See 38 M.R.S.A. § 347-C(in part).

change the waterbody to which the stormwater will be discharged. Information concerning other changes may be submitted in a letter.

If the owner or lessee of the land changes, the new owner or lessee must file an NOI if he or she wishes to continue coverage under this general permit. Materials submitted with an NOI by a prior owner or lessee may be referenced if they are still current. Exception: a lot buyer or subsequent transferee of a lot within a common plan of development or sale is not required to file an NOI unless he or she proposes a construction activity as defined in Part II(A).

**J. Request to be excluded.** A person may request that an activity be excluded from coverage under this general permit and apply for an individual waste discharge permit pursuant to the Department's rules. When an individual permit is issued to a person otherwise subject to this general permit, the applicability of this general permit to that person is automatically terminated on the effective date of the individual permit.

**K. Effect of prior approvals.**

**1. Construction activity including one acre or more of disturbed area.** This subsection applies for purposes of determining jurisdiction under the "one acre" threshold only.

- a. Persons disturbing less than 5 acres. A person with on-going construction activity as of July 21, 2006, who received authorization to discharge under a prior MCGP(s) and whose activity includes less than 5 acres of disturbed area and, that have not submitted a NOT do not have to submit a new NOI to obtain coverage under this general permit and are authorized under this general permit provided that the activity meets the standards of this general permit.
- b. Persons disturbing 5 or more acres. A person with on-going construction activity as of July 21, 2006, who received authorization to discharge for the activity under a prior MCGP(s) and have or will disturb five or more acres shall submit a new notice of intent (NOI) prior to or on October 20, 2006. The new NOI may reference information in prior NOI submissions to the extent it is still current.

**2. Common plan of development or sale.** This subsection applies for purposes of determining jurisdiction under the "common plan of development or sale" threshold only.

A common plan of development or sale (subdivision) is not required to meet the requirements of this general permit if it received approval from LURC or the municipality where it is located before March 10, 2003.

- a. If a subdivision that received municipal or LURC approval prior to March 10, 2003, is modified on or after the effective date of this permit so as to add three or more subdivision lots as determined by LURC or the municipality, this general permit applies to those lots and their associated facilities as provided in Part III.
- b. If a subdivision receives approval on or after March 10, 2003, then this general permit does not apply to lots transferred before March 10, 2003.

Note: A person subdividing land must still file an NOI if he or she will undertake construction activity on the parcel that includes one or more acres of disturbed area, as provided in Part III(A). Examples of such activity would be road or pad construction, or stripping and grading. A single NOI may be filed for both the common plan of development or sale and this disturbed area.

## **PART V -- Limitations on Coverage**

- A. Individual permit or other general permit.** This general permit does not authorize a stormwater discharge associated with construction activity that requires an individual waste discharge permit or is required to obtain coverage under another waste discharge general permit. See Part VI(A) for information on related waste discharge permits.

The Department may require any person with a discharge authorized by this general permit to apply for and obtain an individual permit.<sup>8</sup> When the DEP notifies an applicant that an individual permit is required, no work may be begun or continued unless and until the individual permit is obtained. Any interested person may petition the Department to take action under this paragraph. Examples of when an individual waste discharge permit may be required are specified in rule.<sup>9</sup>

- B. Compliance with this general permit.** This general permit does not authorize a stormwater discharge that is not in compliance with the requirements of this general permit. If the Department determines that the standards of this general permit have not been met, the Department shall notify the person and may:

1. Authorize coverage under this general permit after appropriate controls and implementation procedures designed to bring the discharge into compliance with this general permit and water quality standards have been implemented as determined by the Department;
2. Require an individual waste discharge permit; or
3. Inform the person that the discharge is prohibited.

Compliance with this subparagraph does not preclude any enforcement activity under Maine law for an underlying violation.

- C. Non-stormwater.** This general permit does not authorize a discharge that is mixed with a source of non-stormwater, other than those discharges in compliance with Appendix C(6).
- D. Total maximum daily load (TMDL).** This general permit does not authorize a direct discharge that is inconsistent with any EPA approved TMDL for the waterbody to which the direct discharge drains as provided in Part III(C).
- E. Discharge of hazardous substances, chemicals, or oil.** This general permit does not authorize the discharge of hazardous substances, chemicals, or oil resulting from an on-site spill.
- F. Violation of water quality standards.** This general permit does not authorize a discharge that may cause or contribute to a violation of a water quality standard.
- G. Related laws.** This general permit does not authorize stormwater discharges that are not in conformance with the terms and conditions of permits issued under Site Location of, 38 M.R.S.A. §§ 481-490; Stormwater Management, 38 M.R.S.A. § 420-D; Natural Resources Protection, 38 M.R.S.A. §§ 480-A - 480-Z; or the Land Use Regulation Commission §§ 481 *et. seq.*. This general permit does not authorize stormwater discharges that are not in conformance with the Maine Erosion and Sedimentation Control Law, 38 M.R.S.A. § 420-C.

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<sup>8</sup> See 06-096 CMR 529(2)(B)(3).

<sup>9</sup> 06-096 CMR 529(2)(b)(3)

- H. Post-construction discharges.** This general permit does not authorize stormwater discharges after the completion of permanent stabilization.
- I. Metallic mineral mining or advanced exploration.** This general permit does not authorize discharges from metallic mineral mining or advanced exploration. Stormwater and erosion and sedimentation standards related to construction are specified in the Site Location of Development permit and LURC permit and, if required, an individual waste discharge permit.
- J. Exemptions.** Certain exemptions apply and are specified in the Maine Waste Discharge Law. An exemption in a Maine law other than the Maine Waste Discharge Law, such as the Site Law or Maine Stormwater Management Law, does not create an exemption to the Maine Waste Discharge Law or the requirements of this general permit. Each law has its own set of statutory exemptions.
- K. Reopener.** This general permit may be modified or reopened as provided in 38 M.R.S.A. § 414-A(5).

## Part VI -- Relationship to other programs

An activity may include "construction activity" and also be regulated under other programs.

### A. Related waste discharge permits

- 1. Multi-sector.** A stormwater discharge requiring approval as an industrial activity other than 06-096 CMR 521(b)(14)(x) is not authorized under this general permit.
- 2. Waste discharge permit (surface water).** A waste discharge permit may be required for activities such as combined sewer overflows (CSOs), spray irrigation, process water treatment systems, metallic mine drainage, and other discharges inadequately covered by this general permit, as determined by the Department.
- 3. Waste discharge permit (groundwater).** A waste discharge permit may be required for the discharge of stormwater through any well or wells, including drywells and subsurface fluid distribution systems. For complete requirements, see 06-096 CMR 543.

A "subsurface fluid distribution system" is an assemblage of perforated pipes, drain tiles, or similar mechanisms intended to distribute fluids below the surface of the ground. A "well" is a bored, drilled, or driven shaft the depth of which is greater than the largest surface dimension, whether the shaft is typically dry or contains liquid; or a dug hole the depth of which is greater than the largest surface dimension; or a subsurface fluid distribution system. "Well injection" means the subsurface discharge of fluids into or through a well.

- B. Quarry or an excavation for borrow, clay, topsoil, or silt.** Clearing, grading or excavation activities conducted as part of the exploration and construction phase of a mineral mining operation must meet the requirements of this general permit, if they will result in the direct discharge of stormwater to waters of the state other than groundwater, will disturb one or more acres of land, and occur on or after March 10, 2003. These requirements do not apply to an area that is internally drained. Construction activity includes the building of site access roads and removal of overburden and waste rock to expose mineable materials. If the activity must meet the requirements of this general permit, the following exceptions apply.

1. **Stabilization deadlines.** The 14 day time limit for temporary stabilization in Appendix A(3), and the one-year time limit for permanent stabilization in Appendix A(5) do not apply.
2. **If under the Gravel Pit or Quarry Program -- may need to do an ESC plan.** If the clearing, grading, or excavation activity subject to this general permit is also required to meet the Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt,<sup>10</sup> or Performance Standards for Quarries<sup>11</sup>, then the operator does not have to meet the requirements specified in Part III of this general permit, except for the ESC plan requirements in Part III(A)(2).

In some cases, an area that is not internally drained initially may become internally drained during construction. For an area that has become internally drained, it is not necessary to undertake stabilization as otherwise required under this general permit before filing the NOT.

- C. Other programs such as Site Law, Stormwater, and Waste.** The Department may combine application requirements for this general permit and other programs administered by the Department. Other programs may include facilities and projects regulated pursuant to programs such as 38 M.R.S.A. § 1310-N (Solid waste facility licenses), 1319-R (facility siting), 1319-X (criteria for development of waste oil facilities and biomedical facilities), 38 M.R.S.A. § 483-A (Site Location), 38 M.R.S.A. 420-C (Stormwater Management), and 12 M.R.S.A. § 685-A (LURC). In case of a conflict between the standards in Appendix A, B, and C and those adopted pursuant to any of these laws, the stricter standard applies, as determined by the Department. The review period for the NOI may be extended as provided in Part IV(A)(1)(b). The Department may waive the fee required with the NOI pursuant to this general permit for certain combined applications. Completing a stormwater Permit By Rule notification meets the requirements of this general permit.
- D. Silvicultural activities.** Authorization under this general permit is not required for non-point silvicultural activities as provided in 06-096 CMR 521(10).
- E. Maine Department of Transportation.** Construction activities conducted by the Maine Department of Transportation (MDOT) or the Maine Turnpike Authority (MTA) pursuant to a Memorandum of Agreement between the Department, and MDOT and MTA, are authorized under this general permit within the limits of coverage specified in this general permit. MDOT and MTA are considered qualifying state programs as provided in 40 CFR 122.44(s).

## **PART VII -- Standard Conditions**

**A. General restrictions.** A discharge covered by a General Permit may not:

1. Be to a body of water classified as Class GPA, AA, A or SA;<sup>12</sup>
2. Be to a body of water having a drainage area of less than 10 square miles;
3. Contain any pollutant, including toxic substances, in quantities or concentrations, which may cause or contribute to any adverse impact on the receiving water;

<sup>10</sup> 38 M.R.S.A. §§ 490-A et. seq.

<sup>11</sup> 38 M.R.S.A. §§ 490-W et. seq.

<sup>12</sup> This standard condition is required by 06-096 CMR 529(3), effective January 12, 2001. However, note that 38 M.R.S.A. 465-A(1)(C), 465(1)(C) allow discharge of stormwater to GPA, AA and SA waters if the discharge is in compliance with state and local requirements. For requirements applicable to discharges to Class A waters, see 38 M.R.S.A. 465(2)(C). The Department is proposing emergency legislation to allow certain stormwater discharges to Class A waters and to watersheds of less than 10 square miles. The statutory provisions control for purposes of this general permit.

4. Be to a receiving water which is not meeting its classification standard for any characteristic which may be affected by the discharge; or
  5. Impart color, taste, turbidity, radioactivity, settleable materials, floating substances or other properties that cause the receiving water to be unsuitable for the designated uses ascribed to its classification.
- B. Removed substances.** Pollutants removed or resulting from the treatment of wastewaters must be disposed of in a manner approved by the Department.
- C. Monitoring requirement.** The Department may require monitoring of an individual discharge as may be reasonably necessary in order to characterize the nature, volume or other attributes of that discharge or its sources.
- D. 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 Department, he or she shall promptly submit such facts or information.
- E. Other applicable conditions.** The conditions in 06-096 CMR 523(2) also apply to discharges pursuant to this general permit<sup>13</sup> and are incorporated herein as if fully set forth. These conditions address areas such as: duty to comply; need to reduce or halt activity not a defense; duty to mitigate; permit actions; property rights; duty to provide information; and inspection and entry.
- F. Duty to reapply.** If the permittee wishes to continue an activity regulated by this general permit after the expiration date of this general permit, the permittee must apply for and obtain a new permit.
- G. Severability.** The conditions of this general permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

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<sup>13</sup> See 06-096 CMR 529(3)(i).