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# COVERAGE UNDER THIS GENERAL PERMIT

* 1. **Permit Area**

The construction general permit (CGP) covers all areas of the State of Tennessee.

# Discharges Covered by this Permit

* + 1. Stormwater discharges associated with construction activities

This permit 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 permit 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](#bookmark138) must maintain coverage under this permit 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 permit if:

* + - 1. 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;
      2. the director has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to [waters of the state](#bookmark145); or
      3. 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 permit or rule as a Class V underground injection well under the provisions of Tennessee Rules, Chapter [0400-45-06.](http://share.tn.gov/sos/rules/0400/0400-40/0400-40.htm)

* + 1. Stormwater discharges associated with construction support activities

This permit 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 conditions are met:

* + - 1. The support activity is related to a construction site that is covered under this general permit.
      2. The [operator](#bookmark138) of the support activity is the same as the [operator](#bookmark138) of the construction site.
      3. The support activity is not a commercial operation serving multiple unrelated construction projects by different [operators](#bookmark138).
      4. The support activity does not operate beyond the completion of the construction activity of the last construction project it supports.
      5. Support activities are identified in the Notice of Intent (NOI) and the Stormwater Pollution Prevention Plan ([SWPPP](#bookmark140)). The appropriate erosion prevention and sediment

controls and measures applicable to the support activity shall be described in a comprehensive [SWPPP](#bookmark140) covering the discharges from the support activity areas.

TDOT projects shall be addressed in the Waste and Borrow Policy. 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 permit 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. Non-stormwater discharges authorized by this permit

The following non-stormwater discharges from active construction sites are authorized by this permit provided the non-stormwater component of the discharge is in compliance with Section

* + 1. [below](#bookmark66) ([*Pollution prevention measures for non-stormwater discharges*](#bookmark66)):
       1. Dewatering of collected stormwater and ground water.
       2. Waters used to wash dust and soils 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.
       3. Water used to control dust in accordance with Section [3.5.5 below](#bookmark60).
       4. Potable water sources, including waterline flushings, from which chlorine has been removed to the maximum extent practicable.
       5. Routine external building washdown that does not use detergents or other chemicals.
       6. Uncontaminated groundwater or spring water.
       7. Foundation or footing drains where flows are not contaminated with pollutants (e.g., process materials such as solvents, heavy metals, etc.).

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

* + 1. Other NPDES-permitted discharges

Discharges of stormwater or wastewater authorized by and in compliance with a different NPDES permit may be mixed with discharges authorized by this permit.

# Limitations on Coverage

Except for discharges from support activities, as described in Sectio[n 1.2.2](#bookmark4) and non-stormwater discharges listed in Section [1.2.3,](#bookmark5) all discharges covered by this permit shall be composed entirely of stormwater. This permit does not authorize the following discharges:

1. Post-construction discharges - Stormwater discharges associated with 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.
2. Discharges mixed with non-stormwater - Discharges that are mixed with sources of non- stormwater, other than discharges which are identified in Secti[on 1.2.4](#bookmark6) ([*Other NPDES-*](#bookmark6)[*permitted discharges*](#bookmark6)) and in compliance with Section [3.5.9](#bookmark66) ([*Pollution prevention*](#bookmark66)[*measures for non-stormwater discharges*](#bookmark66)) of this permit.
3. Discharges covered by another permit - Discharges associated with construction activities that have been issued an individual permit in accordance with Subpart [7.12](#bookmark114) ([*Individual*](#bookmark114)[*Permit*](#bookmark114)).
4. 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 division will notify the discharger in writing that an individual permit application is necessary as described in Subpart [7.12](#bookmark114) ([*Individual Permit*](#bookmark114)). The division may authorize coverage under this permit after appropriate controls and implementation procedures have been included in the [SWPPP](#bookmark140) that are designed to bring the discharge into compliance with water quality standards.
5. Discharges into waters with unavailable parameters - Discharges to waters with unavailable parameters that would cause [measurable degradation](#bookmark137) 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 division as failing to support its designated classified uses. A discharge that complies with the additional requirements set forth in Subpart [5.4](#bookmark83) is not considered to cause [measurable degradation](#bookmark137) of waters with unavailable parameters, unless the division determines upon review of the SWPPP that there is a reason to limit coverage as set forth in Subpart 1.3([d) above](#bookmark8) and the SWPPP cannot be modified to bring the site into compliance.
6. Discharges into Outstanding National Resource Waters - Discharges into waters that are designated by the Water Quality Control Board as Outstanding National Resource Waters (ONRW) pursuant to Tennessee Rules, Chapter [0400-40-03-.06(5).](http://share.tn.gov/sos/rules/0400/0400-40/0400-40-03.20150406.pdf)
7. 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 Waters. A discharge that complies with the additional requirements set forth in Subpart [5.4](#bookmark83) is not considered to cause more than de minimis degradation of available parameters unless the division determines upon review of the SWPPP that there is a reason to limit coverage as set forth in Subpart 1.3([d) above](#bookmark8) and the SWPPP cannot be modified to bring the site into compliance.
8. Discharges not protective of aquatic threatened and endangered species, 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](#bookmark141)” 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).

1. Discharges from a new or proposed mining operation - Discharges from new or proposed mining operations are not authorized.
2. ~~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](http://www.nps.gov/nr/) maintained by the Secretary of Interior~~.
3. Discharges into waters with an approved Total Maximum Daily Load - Discharges of a pollutant to waters for which there is an EPA-approved or established total maximum daily load ([TMDL](#bookmark143)) for that pollutant, unless the SWPPP incorporates measures or controls consistent with the assumptions and requirements of the [TMDL.](#bookmark143) ~~If a specific wasteload allocation has been established that would apply to the discharge, that allocation must be incorporated into the~~ [~~SWPPP~~](#bookmark140) ~~and steps necessary to meet that allocation must be implemented. If an EPA-approved or established~~ [~~TMDL~~](#bookmark143) ~~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 division to confirm that adherence to a~~ [~~SWPPP~~](#bookmark140) ~~that meets the requirements of this permit will be consistent with the approved~~ [~~TMDL.~~](#bookmark143) ~~Where an EPA- approved or established~~ [~~TMDL~~](#bookmark143) ~~has not specified a wasteload allocation applicable to construction stormwater discharges, but has not specifically excluded these discharges, adherence to a~~ [~~SWPPP~~](#bookmark140) ~~that meets the requirements of the CGP will be assumed to be consistent with the approved~~ [~~TMDL.~~](#bookmark143) ~~If the EPA-approved or established~~ [~~TMDL~~](#bookmark143) ~~specifically precludes construction stormwater discharges, the~~ [~~operator~~](#bookmark138) ~~is not eligible for coverage under the CGP.~~

Any discharge of stormwater or other fluids to groundwater via an improved sinkhole or injection well requires a Class V Underground Injection Control authorization by rule, or an individual permit under the provisions of Tennessee Rules, Chapter 0400-45-06.

# Obtaining Permit Coverage

A complete NOI, [SWPPP](#bookmark140) 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 review, the division will:~~

1. ~~issue an NOC to the~~ [~~operator~~](#bookmark138) ~~identified as the initial site-wide primary permittee on the NOI form (see Subpart~~ [~~1.5 below~~](#bookmark15) ~~-~~ [*~~Effective Date of Coverage~~*](#bookmark15)~~),~~
2. ~~publish new operators’ supplemental NOI information on TDEC’s dataviewer,~~
3. ~~notify the applicant of needed changes to their NOI submittal (see Sect~~[~~ion 2.6.3 below~~](#bookmark36) ~~-~~

[*~~Application completeness~~*](#bookmark36)~~), or~~

1. ~~deny coverage under this general permit (see Subpart~~ [~~7.12 below~~](#bookmark114) ~~-~~ [*~~Individual Permit~~*](#bookmark114)~~).~~

Submitting for 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.

* + 1. Notice of Intent

[~~Operators~~](#bookmark138) ~~wishing to obtain coverage under this permit must submit a complete NOI in accordance with Part~~ [~~2 below,~~](#bookmark18) ~~using the NOI form provided in Appendix A of this permit. The division will review NOIs for completeness and accuracy and, when deemed necessary, investigate the proposed project for potential impacts to the~~ [~~waters of the state.~~](#bookmark145)

Operators wishing to obtain coverage under this permit must submit a complete NOI in accordance with Part 3, using the NOI form provided in Appendix A of this permit. Electronic submittal is encouraged (see NPDES Electronic Reporting for more information). The division may review NOIs and SWPPPs for completeness and accuracy and, when deemed necessary, investigate the proposed project for potential impacts to the waters of the state. Absent extraordinary circumstances, NOCs should be issued within 30 days of NOI submittal, unless the division has responded to the operator within that time requesting additional information.

* + 1. Stormwater Pollution Prevention Plan (SWPPP)

[Operators](#bookmark138) wishing to obtain coverage under this permit must submit a site-specific [SWPPP](#bookmark140) with the NOI. The [SWPPP](#bookmark140), developed and submitted by the site-wide permittee (typically the owner/developer who applies for coverage prior to project commencement1), 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](#bookmark140) must address the total acreage planned to be disturbed (see definition for “disturbed area” in part [10](#bookmark131)), including any associated construction support activities (see Section [1.2.2 above](#bookmark4)). The [SWPPP](#bookmark140) must be developed, implemented and updated according to the requirements in Part [3 below](#bookmark39) (*SWPPP Requirements*) and Subpart [2.3 below](#bookmark24) ([*Responsibilities of Operators*](#bookmark24)). The [SWPPP](#bookmark140) must be implemented prior to commencement of construction activities.

If the initial [SWPPP](#bookmark140) does not address all activities until final stabilization of the site, an updated [SWPPP](#bookmark140) or addendums to the plan addressing all aspects of current site disturbance must be prepared. An active, updated [SWPPP](#bookmark140) must be in place for all disturbed portions of a site until each portion has been completed and finally stabilized.

Preparation and implementation of the [SWPPP](#bookmark140) may be a cooperative effort with all [operators](#bookmark138) at a site. New [operators](#bookmark138) with design and operational control of their portion of the construction site are expected to adopt, modify, update and implement the comprehensive [SWPPP](#bookmark140). Primary permittees at the site may develop a [SWPPP](#bookmark140) addressing only their portion of the project, as long as the proposed [Best Management Practices (BMPs)](#bookmark133) are compatible with the comprehensive [SWPPP](#bookmark140) and complying with conditions of this general permit.

Site operators who are building single family residential houses on at-grade lots (see Secti[on 2.2.2](#bookmark22) below) and who are submitting an application for coverage under this permit, may complete and submit Form CN-1249, the Stormwater Pollution Prevention Plan (SWPPP) for Single Family Residential Homebuilding Sites. This SWPPP template is available at <http://tdec.tn.gov/etdec/DownloadFile.aspx?row_id=CN-1249>.Form CN-1249 is not appropriate if significant grading of the lot or lots is necessary.

* + 1. 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 Part [10](#bookmark131)) by an entire construction project for which the applicant is requesting coverage, including any associated construction support activities (see Section [1.2.2 above](#bookmark4)). 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 Tennessee Rules, Chapter [0400-40-11.](http://share.tn.gov/sos/rules/0400/0400-40/0400-40.htm) 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 “Treasurer, State of Tennessee.” Electronic payment methods, if made available by the State of Tennessee, are deemed acceptable. The following conditions apply:

* ~~If a project was previously permitted, but permit coverage was terminated (see Section~~

[~~8.1.1 below~~](#bookmark124) ~~-~~ [~~Termination process for primary permittees~~](#bookmark124)~~), and subsequent site disturbance or re-development occurs, the new~~ [~~operator~~](#bookmark138) ~~must obtain coverage and pay the appropriate fee for the disturbed acreage.~~

* ~~New primary operators must pay the fee applicable to projects seeking subsequent coverage under an actively covered larger common plan of development or sale.~~
* ~~Areas not covered by the original application shall be covered under a separate tracking number and a new application fee shall be paid based on the new acreage to be covered.~~
* ~~Please note that in addition to the application fee, an annual maintenance fee applies per Rule 0400-40-11-.02(12)(i).~~

a) If stormwater discharges from the site or acreage to be disturbed was previously authorized by a CGP, but coverage has been since terminated, a primary operator must submit a new application for coverage under the CGP.

b) A new primary operator seeking subsequent coverage under an actively covered site must submit the subsequent coverage fee to obtain coverage under an active NOC.

c) Incidental acreage additions up to 10% of the original plan area, but not to exceed a total of 5 acres, and other minor modifications of the original plan do not require separate NOI submittal. These minor additions require submittal of a plan indicating the additional area(s) of disturbance, the total acreage to be disturbed, and the updated SWPPP. An additional fee is required only if the total acreage of disturbance would require a higher fee than originally paid, and then only the difference is due. New acreage disturbances cannot be added as previously disturbed acreage is stabilized, to create a ‘rolling’ total of disturbance.

d) Please note that in addition to the application fee, an annual maintenance fee applies per Tennessee Rules, Chapter 0400-40-11-.02(12)(i).

* + 1. Submittal of a documents to local municipalities

Permittees who discharge stormwater through an NPDES-permitted municipal separate storm sewer system ([MS4](http://tn.gov/environment/wpc/stormh2o/)) who are not exempted in section [1.4.5 below](#bookmark14) ([*Permit coverage through*](#bookmark14)[*Qualifying Local Program*](#bookmark14)) must submit a copy of the notice of coverage NOC, and at project completion, a copy of the signed NOT to the [MS4](https://www.tn.gov/environment/article/permit-water-stormwater-discharges-permitting) upon its request. Permitting status of all permittees covered, or previously covered, under this general permit as well as the most current list of all [MS4](https://www.tn.gov/environment/article/permit-water-stormwater-discharges-permitting) permits is available at <http://tn.gov/environment/article/tdec-dataviewers>.

* + 1. Permit coverage through Qualifying Local Program

Coverage equivalent to coverage under this general permit may be obtained from a qualifying local erosion prevention and sediment control [MS4](https://www.tn.gov/environment/article/permit-water-stormwater-discharges-permitting) program. A Qualifying Local Program (QLP) is a municipal stormwater program implemented by an MS4 for stormwater discharges associated with construction activity that has been formally approved by the division. More information about Tennessee’s QLP program and MS4 participants can be found at: [https://www.tn.gov/environment/article/tennessee-qualifying-local-program.](https://www.tn.gov/environment/article/tennessee-qualifying-local-program)

If a construction site is within the jurisdiction of, and has obtained a notice of coverage from, a QLP, the [operator](#bookmark138) is authorized to discharge stormwater associated with construction activity under this general permit without the submittal of an NOI, SWPPP or application fee to the division. Permitting of stormwater runoff from construction sites from federal or state agencies (e.g., Tennessee Department of Transportation and Tennessee Valley Authority) and the local [MS4](https://www.tn.gov/environment/article/permit-water-stormwater-discharges-permitting) program itself will remain solely under the authority of TDEC.

The division may require any [operator](#bookmark138) located within the jurisdiction of a QLP to obtain permit coverage directly from the division. The [operator](#bookmark138) shall be notified in writing by the division that coverage by the QLP is no longer applicable and how to obtain coverage under this permit.

# Effective Date of Coverage

* + 1. ~~Notice of Coverage~~

~~The NOC is a notice from the division to the initial site-wide primary permittee informing the applicant that the NOI, the~~ [~~SWPPP,~~](#bookmark140) ~~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.~~

~~For new operators seeking subsequent coverage under an existing tracking number, the division will not issue an NOC. New operators are covered under the permit when their permit record is published on TDEC’s dataviewer as “active” and with an effective date.~~

~~Assigning a permit tracking number by the division to a proposed discharge from a construction site does not confirm or imply an authorization to discharge under this permit. The division 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 division 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.~~

~~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 complete by the division. The treatment and disposal of wastewater (e.g., sanitary wastewater) generated during and after the construction must be also addressed prior to issuance of the NOC. The NOC may be delayed until adequate wastewater treatment and accompanying permits are issued.~~

* + 1. ~~Permit tracking numbers~~

~~Construction sites covered under this permit will be assigned permit tracking numbers in the sequence TNR100001, TNR100002, etc. An~~ [~~operator~~](#bookmark138) ~~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 section~~ [~~2.4.1 below~~](#bookmark28)~~). An~~ [~~operator~~](#bookmark138) ~~receiving new permit coverage will be assigned a new permit tracking number (see section~~ [~~2.4.2 below~~](#bookmark29)~~).~~

**1.5. NOTICE OF COVERAGE**

1.5.1 Permit Tracking Numbers

Construction sites covered under this permit will be assigned permit tracking numbers in the sequence TNR100001, TNR100002, etc. Permit tracking numbers assigned under a previous construction general permit will be retained. An operator receiving new permit coverage will be assigned a new permit tracking number. Assigning a permit tracking number by the division to a proposed discharge from a construction site does not confirm or imply an authorization to discharge under this permit.

1.5.2 Notice of Coverage (NOC)

The NOC is a notice from the division to the primary permittee informing them that the NOI, the SWPPP, and the application fee were received and accepted. The primary permittee is authorized to discharge stormwater associated with construction activity as of the effective date listed on the NOC.

For new operators seeking subsequent coverage under an existing tracking number, the division will not issue a NOC. New operators that notify the division to be added to an existing coverage are covered upon receipt of notification by the division. The permit record reflecting the additional operator will be published on TDEC’s DataViewer in the next update.

The division 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 division 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.

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 are not authorized by this permit. Such alterations may require an Aquatic Resources Alteration Permit (ARAP):

https://www.tn.gov/environment/permit-permits/water-permits1/aquatic-resource-alteration-permit--arap-.html.

It is the responsibility of the applicant to thoroughly and accurately identify all waterbodies (including wetlands and streams) located on the site and to provide a determination of the water’s status.

For channels, this determination must be conducted in accordance with Tennessee’s standard operating procedures for hydrologic determinations set forth at Tennessee Rules, Chapter 0400-40-03.05(9). Wetlands determinations must include the submission of a wetland delineation completed utilizing the USACOE 1987 Wetlands Delineation Manual and applicable Regional Supplement. For the purposes of permitting, the permittee may choose to provide all aquatic features located on the site the protections afforded to streams and wetlands in lieu of conducting hydrologic determinations. ARAPs are independent requirements from CGP coverage and complete applications for ARAPs shall preceed NOI submittal. The division reserves the right to delay or withhold issuance of coverage under the CGP in some cases until the appropriate ARAP coverage has been obtained.

The treatment and disposal of wastewater (e.g., sanitary, commercial or industrial wastewater) generated during and after the construction must be also addressed prior to issuance of the NOC. The NOC may be delayed until adequate wastewater treatment is identified and accompanying disposal permits are issued.