# PART 2

## CONSTRUCTION SITE OPERATORS

### TYPES OF OPERATORS 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. This person may be an individual, a corporate entity, or a governmental entity. An owner’s or developer’s responsibility to comply with requirements of this permit extends until permit coverage is terminated in accordance with requirements of Part [9](#_bookmark128).

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](#_bookmark162) associated with the same project, all [operators](#_bookmark162) are required to obtain permit coverage. Once covered by a permit, all such [operators](#_bookmark162) 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.

 **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 primary permittee for the purpose of constructing and selling a structure4 and has design or operational control over construction plans and specifications for that portion of the site, or is hired by an end user, such as a lot owner who may not be a permittee, must obtain coverage in one of the following ways:

* + 1. The site-wide permittee may transfer coverage to the commercial builder, for the entire site or just the acreage/lots the builder has purchased;

4 e.g., residential house, non-residential structure, commercial building, industrial facility, etc.

* + 1. The commercial builder may submit a new [NOI](#_bookmark192) for the acreage purchased, following requirements in Section [3.1.4](#_bookmark34); or
    2. The commercial builder may be hired by the primary permittee or a lot owner to build a structure, or by mutual agreement build on the site under the existing coverage of the site-wide permittee. In this case, the commercial builder signs the primary permittee’s [NOI](#_bookmark192) and [SWPPP](#_bookmark177) as a contractor (see Section [2.1.3](#_bookmark24)) and is considered a secondary permittee.

 **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](#_bookmark177) or other permit conditions (e.g., the contractor is authorized to direct workers at a site to carry out activities required by the [SWPPP](#_bookmark177) or comply with other permit conditions). A contractor may be:

* a general contractor
* a grading contractor
* an erosion control contractor
* a sub-contractor responsible for land disturbing activities or erosion prevention and [sediment](#_bookmark168) control (EPSC) implementation and maintenance
* 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](#_bookmark192) and [SWPPP](#_bookmark177) associated with the construction project at which they will be an [operator](#_bookmark162), and submit an [NOI](#_bookmark192) to [the division](#_bookmark154) indicating their intent to be added to the existing site coverage as an [operator](#_bookmark162).

### RESPONSIBILITIES OF OPERATORS

A permittee may meet one or more of the operational control components in the definition of “[operator](#_bookmark162)” found in Subpart [2.1](#_bookmark21). Either Section [2.2.1](#_bookmark26) or [2.2.2,](#_bookmark27) or both, will apply depending on the type of operational control exerted by an individual permittee.

 **Permittees with Design Control**

Permittees with operational control over construction plans and specifications at the construction site, including the ability to make modifications to those plans and specifications, must ensure that:

* + 1. the project specifications meet the minimum requirements of Part [5](#_bookmark56) (stormwater pollution prevention plan - [SWPPP](#_bookmark177)) and all other applicable conditions;
    2. the [SWPPP](#_bookmark177) indicates the areas of the project where they have operational control;
    3. all other permittees implementing and maintaining portions of the [SWPPP](#_bookmark177) impacted by any changes made to the plan are notified of such modifications in a timely manner;
    4. all common [BMP](#_bookmark142)s (i.e., [sediment](#_bookmark168) treatment basin and drainage structures) necessary for the prevention of erosion or control of [sediment](#_bookmark168) are maintained and effective until all construction is complete and all [disturbed areas](#_bookmark153) in the entire project are stabilized, unless permit coverage has been obtained and responsibility has been taken over by a new primary permittee; and
    5. all [operators](#_bookmark162) on the site have permit coverage, if required, and are complying with the [SWPPP.](#_bookmark177)

If parties with day-to-day operational control of the construction site have not been identified at the time the comprehensive [SWPPP](#_bookmark177) is initially developed, the permittee with operational control shall be considered to be the responsible person until a supplemental [NOI](#_bookmark192) is submitted identifying the new [operators](#_bookmark162) (see Section [3.1.4](#_bookmark34)). These new [operators](#_bookmark162) (e.g., general contractor, utilities contractors, sub-contractors, erosion control contractors, hired commercial builders) are considered secondary permittees. The [SWPPP](#_bookmark177) must be updated to reflect the addition of new [operators](#_bookmark162).

### Permittees with Day-to-Day Operational Control

Permittees with day-to-day operational control of the activities necessary to ensure compliance with the [SWPPP](#_bookmark177) or other permit conditions must ensure that:

1. the [SWPPP](#_bookmark177) for portions of the project where they are [operators](#_bookmark162) meets the requirements of Part [5](#_bookmark56) and identifies the parties responsible for implementing the [control measures](#_bookmark148) identified in the plan;
2. the [SWPPP](#_bookmark177) indicates areas of the project where they have operational control over day-to-day activities; and
3. measures in the [SWPPP](#_bookmark177) are adequate to prevent [soil](#_bookmark171) erosion and control any [sediment](#_bookmark168) 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 permit 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 ([BMP](#_bookmark142)s) and other controls required by the [SWPPP](#_bookmark177). 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](#_bookmark177).