**CGP Marked Section 7 Current Permit Strike through is deleted—Red is added**

**~~7. STANDARD PERMIT CONDITIONS~~**

**7. RETENTION, ACCESSIBILITY AND SUBMISSION OF RECORDS**

**~~7.1. Duty to Comply~~**

~~7.1.1. Duty to comply~~

~~The permittee must comply with all conditions of this permit. Any permit 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~~

~~Pursuant to T.C.A. § 69-3-115 of The Tennessee Water Quality Control Act of 1977, as amended:~~

~~a) Any person who violates an effluent standard or limitation or a water quality standard~~

~~established under this part (T.C.A. § 69-3-101, et. seq.); violates the terms or conditions~~

~~of this permit; fails to complete a filing requirement; fails to allow or perform an entry,~~

~~inspection, monitoring or reporting requirement; violates a final determination or order of~~

~~the board, panel or commissioner; or violates any other provision of this part or any rule~~

~~or regulation promulgated by the board, is subject to a civil penalty of up to ten thousand~~

~~dollars ($10,000) per day for each day during which the act or omission continues or~~

~~occurs.~~

~~b) Any person unlawfully polluting the waters of the state or violating or failing, neglecting,~~

~~or refusing to comply with any of the provisions of this part (T.C.A. § 69-3-101, et. seq.)~~

~~commits a Class C misdemeanor. Each day upon which such violation occurs constitutes~~

~~a separate offense.~~

~~c) Any person who willfully and knowingly falsifies any records, information, plans,~~

~~specifications, or other data required by the board or the commissioner, or who willfully~~

~~and knowingly pollutes the waters of the state, or willfully fails, neglects or refuses to~~

~~comply with any of the provisions of this part (T.C.A. § 69-3-101, et. seq.) commits a~~

~~Class E felony and shall be punished by a fine of not more than twenty-five thousand~~

~~dollars ($25,000) or incarceration, or both.~~

~~7.1.3. Civil and criminal liability~~

~~Nothing in this permit 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 permit 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 permit 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.~~

**7.1 DOCUMENTS**

The primary 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.

**~~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~~

~~permit by the permit expiration date cannot become authorized to discharge under the continued~~

~~permit.~~

~~Operator(s) of an existing site permitted under the division’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 division’s review upon request.~~

**7.2 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 location accessible to the division) 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.

Posting Information at the Construction Site

A notice shall be posted near the main entrance of the construction site visible to the public with the following information:

1. a) a copy of the NOC with the NPDES permit tracking number for the construction project;
2. 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; and
3. c) the location of the SWPPP (Subpart 7.2).

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 if the site is 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:

1. a) A rain gauge (or use a reference site for a record of daily precipitation) and accurate rainfall records;
2. b) A copy of all required inspection reports; and
3. c) Records of the dates when major grading activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated.

**~~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.~~

**7.3 ELECTRONIC SUBMISSION OF DOCUMENTS**

This permit requires the submission of forms developed by the director in order for a person to comply with certain requirements, including, but not limited to, making reports, submitting inspection findings, applying for permit coverage and requesting for termination of permit coverage. The director may make these forms available electronically and, if submitted electronically, then that electronic submission shall comply with the requirements of Chapter 0400-01-40. Electronic submission may be required when available, unless waived by the Commissioner in accordance with 40 C.F.R. § 127.15.

If the division notifies applicants by mail, E-mail, public notice or by making information available on the world wide web of electronic NOI forms (see NPDES Electronic Reporting), the operators may be required to use those electronic options to submit the NOI (Section 3.3.2)

In the event of large-scale emergencies and/or prolonged electronic reporting system outages, an episodic electronic reporting waiver may be granted by the Commissioner in accordance with 40 CFR § 127.15. A request for a deadline extension or episodic electronic reporting waiver should be submitted to DWRWater.Compliance@tn.gov, in compliance with the Federal NPDES Electronic Reporting Rule.

In the event that NPDES Electronic Reporting is not functioning, the permittee shall comply with reporting conditions by mailing reports with wet-ink original signatures shall to the following address:

*STATE OF TENNESSEE*

*DEPARTMENT OF ENVIRONMENT AND CONSERVATION*

*DIVISION OF WATER RESOURCES*

*COMPLIANCE & ENFORCEMENT UNIT*

*William R. Snodgrass - Tennessee Tower*

*312 Rosa L. Parks Avenue, 11th Floor*

*Nashville, Tennessee 37243-1102*

For purposes of determining compliance with this permit, data provided to the division electronically is legally equivalent to data submitted on signed and certified forms. A copy must be retained for the permittee’s files.

**~~7.4. Duty to Mitigate~~**

~~The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of~~

~~this permit 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 division or an authorized representative of the division, within a~~

~~time specified by the division, any information that the division may request to determine~~

~~compliance with this permit or other information relevant to the protection of the waters of the~~

~~state. The permittee shall also furnish to the division, 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, 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 Sections 7.7.1 and 7.7.2 below and dated.~~

~~7.7.1. Signatory requirements for an NOI6~~

~~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:~~

~~i. 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~~

~~6 As specified in 40 CFR 122.22(a)(1)-(3) [48 FR 14153, Apr. 1, 1983, as amended at 48 FR 39619, Sept. 1, 1983;~~

~~49 FR 38047, Sept. 29, 1984; 50 FR 6941, Feb. 19, 1985; 55 FR 48063, Nov. 16, 1990; 65 FR 30907, May 15,~~

~~2000]~~

~~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~~

~~principle geographic unit of the agency (e.g., Regional Administrators of EPA).~~

~~NOTE: The division does not require specific assignments or delegations of authority to~~

~~responsible corporate or municipal, state, federal, or other public agency officers. The division~~

~~will presume that these officers have the requisite authority to sign permit applications unless the~~

~~entity has notified the director to the contrary. Procedures governing authority to sign permit~~

~~applications may provide for assignment or delegation to applicable 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 permit and other information requested by the division,~~

~~including but not limited to Notice of Violation responses, shall be signed by a person described~~

~~in Section 7.7.1 above, 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 Section 7.7.2 above), a person~~

~~is a duly authorized representative only if:~~

~~a) the authorization is made in writing by a person described in Section 7.7.1 above;~~

~~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 EFO (see Section~~

~~2.8 above). 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 Section 7.7.1 above delegating the authority.~~

~~7.7.4. Changes to authorization~~

~~If an authorization under Sections 7.7.1 above or 7.7.3 above 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 an appropriate EFO (see Section 2.8 above) and signed by the new party who meets~~

~~signatory authority satisfying the requirements of Sections 7.7.1 above or 7.7.3 above. 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 Subpart 2.2 above) 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 onsite~~*

*~~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 permit 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 permit 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 permit does not convey any property rights of any sort, or any exclusive~~

~~privileges; nor does it authorize any injury to private property, any invasion of personal rights or~~

~~any infringement of federal, state or local laws or regulations. The issuance of this permit does~~

~~not authorize trespassing or discharges of stormwater or non-stormwater across private property.~~

**~~7.11. Severability~~**

~~The provisions of this 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.~~

**~~7.12. Individual Permits~~**

~~7.12.1. Required coverage~~

~~The director may require any person covered by this permit to apply for and obtain an individual~~

~~NPDES permit 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 the appropriate Environmental~~

~~Field Office of the division as indicated in Subpart 2.8 above. 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 requested coverage~~

~~Any discharger authorized by this permit may request to be excluded from the coverage of this~~

~~permit by applying for an individual permit. Any discharger that knowingly cannot abide by the~~

~~terms and conditions of this permit 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 division’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 permit 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 permit 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 permit 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 permit 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 division 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. Permit Actions~~**

~~This permit may be issued, modified, revoked, reissued or terminated for cause in accordance~~

~~with this permit 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.~~