

# NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT

**DISCHARGE AUTHORIZED:** DISCHARGES FROM CONSTRUCTION ACTIVITIES THAT RESULT IN A TOTAL LAND DISTURBANCE OF ONE ACRE OR GREATER AND SITES LESS THAN ONE ACRE BUT ARE PART OF A COMMON PLAN OF DEVELOPMENT OR SALE

**AREA OF COVERAGE:** THE STATE OF ALABAMA

**PERMIT NUMBER:** ALR10C52Z

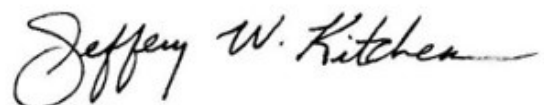
**RECEIVING WATERS:** ALL WATERS OF THE STATE OF ALABAMA

*In accordance with and subject to the provisions of the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§1251-1378 (the "FWPCA"), the Alabama Water Pollution Control Act, as amended, Code of Alabama 1975, §§ 22-22-1 to 22-22-14 (the "AWPCA"), the Alabama Environmental Management Act, as amended, Code of Alabama 1975, §§22-22A-1 to 22-22A-15, and rules and regulations adopted thereunder, and subject further to the terms and conditions set forth in this permit, the Permittee is hereby authorized to discharge into the above-named receiving waters.*

**ISSUANCE DATE:** March 12, 2021

**EFFECTIVE DATE:** April 1, 2021

**EXPIRATION DATE:** March 31, 2026



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## **PART I: Coverage Under This General Permit**

### **A. Permit Coverage**

This permit authorizes, subject to the conditions of this permit, discharges associated with construction activity that will result in land disturbance equal to or greater than one (1) acre or from construction activities involving less than one (1) acre and which are part of a common plan of development or sale equal to or greater than one (1) acre occurring on or before, and continuing after the effective date of this permit, except for discharges identified under Part I.C. of the permit.

### **B. Eligibility**

#### **1. Allowable Stormwater Discharges**

This permit authorizes the following stormwater discharges:

- (a) Stormwater associated with construction activities defined in Part I.A. of this permit;
- (b) The following stormwater discharges have been determined by the Director to require coverage under this permit:
  - (i) Sites, irrespective of size, whose stormwater discharges have a reasonable potential to be a significant contributor of pollutants to a water of the State, as determined by the Department;
  - (ii) Sites, irrespective of size, whose stormwater discharges have a reasonable potential to cause or contribute to a violation of an applicable Alabama water quality standard as determined by the Department.
- (c) Discharges from construction support activities provided:
  - (i) The support activity is solely related to the construction site covered under this permit;
  - (ii) The support activity is not an operation serving multiple unrelated construction projects and does not operate beyond the completion of the construction activity at the construction project it supports;
  - (iii) The support activity is located in close proximity (two-mile radius) to the construction site covered under this permit, or as otherwise approved by the Department;
  - (iv) Stormwater controls are implemented in accordance with Part III for discharges from the support activity area; and
  - (v) Pollutant discharges from support activity areas are minimized to the maximum extent practicable and do not pose a reasonable potential to exceed applicable water quality standards.

#### **2. Allowable Non-Stormwater Discharges**

This permit authorizes the following non-stormwater discharges provided the non-stormwater component of the discharge is in compliance with Part III.D.:

- (a) Discharges from fire-fighting activities;
- (b) Fire hydrant flushings;
- (c) Water used to wash vehicles and equipment where detergents are not used;
- (d) Water used to control dust;
- (e) Potable water including uncontaminated water line flushings not associated with hydrostatic testing;
- (f) Routine external building wash down associated with construction that does not use detergents;
- (g) Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used. The operator is prohibited from directing pavement wash waters directly into any surface water, storm drain inlet, or stormwater conveyance, unless the conveyance is connected to a sediment basin, sediment trap, or similarly effective control;
- (h) Uncontaminated air conditioning or compressor condensate associated with temporary office trailers and other similar buildings;
- (i) Uncontaminated, non-turbid discharges of ground water or spring water;
- (j) Foundation or footing drains where flows are not contaminated with process materials such as solvents; and
- (k) Landscape irrigation.

**C. Exempt Discharges**

1. Coverage under this permit is not required for the following:
  - (a) Animal feeding operation (AFO) or concentrated animal feeding operation (CAFO) construction activity that has been granted NPDES registration coverage pursuant to Chapter 335-6-7;
  - (b) Normal agricultural; and
  - (c) Silvicultural activities.
2. Coverage under this permit is not required for discharges associated with minor land disturbing activities such as the following:
  - (a) Home gardens or individual home landscaping;
  - (b) Home repairs and/or maintenance;
  - (c) Fence installation or maintenance;
  - (d) Directional boring, hand hole digging; and
  - (e) Guardrail, shoulder, and minor improvements associated with roadway pavement resurfacing.

**D. Prohibited Discharges**

The following discharges associated with construction are not authorized by this permit:

1. Stormwater discharges that are mixed with sources of non-stormwater unless such stormwater discharges are:
  - (a) In compliance with a separate NPDES permit, or
  - (b) Determined by the Department not to be a contributor of pollutants to waters of the State.
2. Stormwater discharges currently covered under another NPDES permit;
3. Discharges from coal/metallic mining, dry processing, wet processing, and areas associated with these activities;
4. Wastewater from washout of concrete, unless managed by an appropriate control (Wastewater from Concrete Batch Plants are prohibited unless such discharges are authorized by and in compliance with a separate NPDES permit);
5. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
6. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
7. Soaps or solvents used in vehicle and equipment washing;
8. Discharges from dewatering activities, including discharges of ground water or accumulated stormwater from dewatering of trenches, excavations, foundations, vaults, or other similar points of accumulation, unless managed by appropriate controls;
9. Discharges to surface waters from sediment basins or impoundments, unless an outlet structure that withdraws water from the surface, unless infeasible, is utilized;
10. Discharges where the turbidity of such discharge will cause or contribute to a substantial visible contrast with the natural appearance of the receiving water;
11. Discharges where the turbidity of such discharge will cause or contribute to an increase in the turbidity of the receiving water by more than 50 NTUs above background. For the purposes of determining compliance with this limitation, background will be interpreted as the natural condition of the receiving water without the influence of man-made or man-induced causes. Turbidity levels caused by natural runoff will be included in establishing background levels;
12. Discharges of any pollutant into any water for which a total maximum daily load (TMDL) has been finalized or approved by EPA unless the discharge is consistent with the TMDL;
13. Discharges to waters listed on the most recently approved 303(d) list of impaired streams unless the discharge will not cause or contribute to the listed impairment; and
14. Toxic or hazardous substances from a spill or release.

## **PART II: Notice of Intent (NOI) Requirements**

### **A. Deadlines for Notices of Intent**

Any person wishing to obtain coverage under this general permit shall submit an NOI in accordance with the following schedule:

1. Any person wishing to be permitted to discharge under this general permit shall submit a complete NOI and appropriate fee prior to the initiation of construction activity;
2. Any Permittee authorized to discharge under the 2016 NPDES Construction General Permit, who wishes to continue to discharge upon the expiration of that permit, shall submit a complete NOI to be covered by this reissued General Permit. Such NOI shall be submitted at least 30 days prior to the expiration date of the 2021 NPDES Construction General Permit; and
3. Failure of the Permittee to submit a complete NOI for reauthorization under this permit at least 30 days prior to the previous permit's expiration will void the automatic continuation of the authorization to discharge under that permit as provided by ADEM Admin. Code r. 335-6-6-.06. Should the permit not be reissued for any reason prior to its expiration date, Permittees who failed to meet the 30-day submittal deadline will be illegally discharging without a permit after the expiration date of the 2016 NPDES Construction General Permit.

### **B. Continuation of the Expired General Permit**

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the ADEM Administrative Code Chapter 335-6-6 and remain in force and in effect if the Permittee submits an updated and complete NOI meeting the requirements of Part II.C. at least 30 days prior to the expiration of this permit. Any Permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

1. Reissuance or replacement of this 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. Issuance of an individual permit; or
3. A formal permit decision by the Department not to reissue this general permit, at which time the Permittee must seek coverage under an alternative general permit or an individual permit.

### **C. Contents of the Notice of Intent (NOI)**

1. The NOI shall include:
  - (a) The correct fee pursuant to ADEM Admin. Code R. 335-1, Fee Schedule D;
  - (b) A general description of the construction activity for which coverage is desired, which shall be in sufficient detail to allow the Department to determine that the stormwater and non-stormwater discharges are included in the authorized discharges category of this general permit;
  - (c) The latitude and longitude, to the nearest second, for the entrance to the construction site, each outfall for which coverage under this general permit is desired. For the purposes of this requirement the entrance to the construction site will be identified as the primary point of access by normal vehicle traffic. For linear projects, the latitude and longitude, to the nearest second, should be provided for the starting and ending point of the project boundaries;
  - (d) Identification of the waterbodies receiving discharges for which coverage under this general permit is desired;
  - (e) A portion or copy of a recent map or series of maps (e.g., USGS quadrangle map or LIDAR contour map) at an appropriate contour interval, including perennial, intermittent, and ephemeral streams/lakes/springs/wetlands. Several maps/pages may be necessary depending on the size and scope of the project;
  - (f) The map(s) at a minimum must include the following, which should be clearly identified (please include a key for symbols and a scale) on the map(s):
    - (i) Site/project boundaries;
    - (ii) Proposed permit boundaries;
    - (iii) Property boundaries (non-linear project only);
    - (iv) Area(s) of disturbance;
    - (v) One (1) mile radius;
    - (vi) Entrance(s)/Exit(s);

- (vii) Outfall(s);
  - (viii) Receiving stream(s); and
  - (ix) Begin and End Project Locations (Linear project only).
- (g) A current plat map for subdivisions and/or common plans of development or sale;
  - (h) A facility contact person, address, and phone number for the site to be covered under the general permit.
  - (i) For priority construction sites, the NOI must be accompanied by a copy of the CBMPP prepared and certified by a Qualified Credentialed Professional (QCP) as required by Part III.E.
  - (j) The number of estimated disturbed acres and total site acreage.
  - (k) The estimated start and completion dates of project.
  - (l) Provide a list of all treatment chemicals anticipated to be used at the site, including the most recent published Safety Data Sheets (SDS) and the dosage(s) to be used and the location(s) where these materials will be applied. If this information is not known at the time of the NOI submittal, the information shall be submitted to the Department through an information update as timely as possible and update the CBMPP as required by Part III.E.5.
2. The NOI shall be signed by a person meeting the requirements for signatories under ADEM Admin. Code r. 335-6-6-.09, and the person signing the NOI shall make the certification required for submission of documents under ADEM Admin Code r. 335-6-6-.09(4).
  3. The NOI shall be signed by a QCP and shall have the following certification statement: "I certify under penalty of law that a comprehensive Construction Best Management Practices Plan (CBMPP) for the prevention and minimization of all sources of pollution in stormwater and authorized related process wastewater runoff has been prepared under my supervision for this site/activity, and associated regulated areas/activities. The CBMPP meets the requirements of this permit and if properly implemented and maintained by the operator, discharges of pollutants in stormwater runoff can reasonably be expected to be effectively minimized to the maximum extent practicable according to the requirements of ADEM Administrative Code r. 335-6-6-.23 and this Permit. The CBMPP describes the erosion and sediment control measures that must be fully implemented and regularly maintained as needed at the permitted site in accordance with sound sediment and erosion control practices to ensure the protection of water quality."

**D. Submittal of Documents**

The Permittee must complete and submit the NOI electronically, using the Department’s Alabama Environmental Permitting and Compliance System (AEPACS), unless the Permittee submits in writing valid justification as to why the electronic submittal process cannot be utilized and the Department approves in writing the utilization of hard copy submittals. The AEPACS can be accessed at the following link: <http://adem.alabama.gov/AEPACS>. Permit requests for initial issuance and modifications of the existing permit should all be submitted through the AEPACS system.

**E. Additional Permittees (Co-Permittee) Under a Single NOI**

Multiple operators conducting regulated land disturbances in a common plan of development may jointly submit an NOI. An NOI covering multiple operators must include a site plan clearly describing each operator’s areas of operational control.

**F. Authorization to Discharge**

1. Except as otherwise limited by Part II.F.2 or II.F.3, the operator is authorized to discharge in accordance with the requirements of this permit upon the Department’s receipt of a complete and timely NOI which meets the requirements of this permit and ADEM Admin. Code r. 335-6-6-.23.
2. Coverage under this permit is conditionally granted, and the requirement to submit an NOI is suspended for governmental agencies and utilities for construction activity associated with immediate and effective emergency repairs and response to natural disasters, human health or environmental emergencies, or to avert/avoid imminent, probable, or irreparable harm to the environment or severe property damage. The operator or controlling/participating federal, State, or local government agencies/entities conducting emergency construction activity shall document the emergency condition, ensure compliance with the requirements of this permit to the extent possible, and shall notify the Department as promptly as possible regarding the occurrence of the emergency construction disturbance and measures that have been implemented and are being implemented to protect water quality. Unless the requirement to obtain a permit pursuant to the requirements of this permit are suspended or voided by the Director on a categorical or individual emergency basis, the operator shall submit the appropriate project information, NOI, and the required application fee for construction or reconstruction activity after emergency repairs have been accomplished, according to a schedule acceptable to the Department.

3. For priority construction sites, the operator is authorized to discharge thirty (30) days from the Department's receipt of a complete and technically adequate NOI and CBMPP meeting the requirements of Parts II.C. and III.E, unless, within thirty (30) days from the Department's receipt of the NOI, the Department notifies the operator that additional time is needed to review the NOI and CBMPP. Where the operator receives such notification from the Department, that operator may not discharge until the Department formally acknowledges receipt of a complete and technically adequate NOI and CBMPP.



### **PART III: Stormwater Pollution Prevention Requirements**

The stormwater control requirements in this Part are the technology-based, non-numeric effluent limitations and conditions that apply to all discharges from construction projects eligible for coverage under this permit. These requirements apply the national effluent limitations guidelines and new source performance standards found at 40 CFR Part 450.

Where the requirements in this Part are stricter than any corresponding federal, State, or local requirements, the requirements in this permit take precedence.

#### **A. Erosion Controls and Sediment Controls**

The Permittee shall design, install, and maintain effective stormwater controls, erosion controls, and sediment controls appropriate for site conditions. To meet this requirement, the following factors shall be accounted for in designing controls:

1. The nature of stormwater runoff and run-on at the site, including factors such as expected flow from impervious surfaces, slopes, and site drainage features;
2. Control stormwater volume and velocity within the site to minimize soil erosion;
3. Control stormwater discharges, including both peak flowrates and total stormwater volume, to minimize channel and streambank erosion and scour in the immediate vicinity of points of discharge;
4. The soil series and range of soil particle sizes expected to be present on the site;
5. Complete installation of stormwater controls by the time each phase of construction activities has begun;
  - (a) By the time construction activity in any given portion of the site begins, install and make operational any downgradient sediment controls (e.g., buffers, perimeter controls, storm drain inlet protection, etc.) that control discharges from the initial site clearing, grading, excavating, and other earth-disturbing activities; and
  - (b) Following the installation of these initial controls, install and make operational all stormwater controls needed to control discharges prior to subsequent earth-disturbing activities.
  - (c) The requirement to install stormwater controls prior to each phase of construction activities for the site does not apply to the earth disturbance associated with the actual installation of these controls. Operators should take all reasonable actions to minimize the discharges of pollutants during the installation of stormwater controls.
6. Ensure that all stormwater controls are properly implemented, maintained, and remain in effective operating condition during permit coverage and are protected from activities that would reduce their effectiveness;
7. Minimize the amount of soil exposed and the duration of exposure during construction activity through the use of project phasing, sequence of construction, or other appropriate techniques;
8. Provide and maintain a 25-foot natural riparian buffer around surface waters as discussed in detail in Part III.B.;
9. Implement measures or requirements to achieve the pollutant reductions consistent with a TMDL finalized or approved by EPA. Applicable TMDLs are located and/or can be accessed at the following link:  
<http://adem.alabama.gov/programs/water/approvedTMDLs.htm>
10. Minimize the disturbance of steep slopes;
11. Minimize sediment discharges from the site;
12. Minimize the generation of dust through the appropriate application of water or other dust suppression techniques;
13. Minimize all stream crossings;
14. Minimize sediment track-out:
  - (a) Use appropriate stabilization techniques at all construction entrances and exits onto paved roads;
  - (b) Restrict vehicle use to properly designated entrances and exits;
  - (c) Implement and maintain additional track-out controls as necessary to ensure that sediment removal occurs prior to vehicle exit; and
  - (d) Sediment that has been tracked-out from site onto paved roads, sidewalks, or other paved areas outside of site boundaries should be removed by the end of the same business day and/or normal operating hours. Removal shall be by sweeping, shoveling, or vacuuming the surfaces. Removal by hosing or sweeping tracked out sediment into any stormwater conveyance, storm drain inlet, or water of the State is prohibited.

15. Protect storm drain inlets, where applicable:
  - (a) Install storm drain inlet protection measures that remove coarse sediment particles from discharges prior to entry into any storm drain inlet that routes stormwater flow from the site and/or to a water of the State to further prevent sediment discharges; and
  - (b) Clean, remove, and replace protection measures as sediment accumulates as often as is necessary to ensure full effectiveness of protection measures and/or that performance is not compromised.
16. Direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible;
17. Minimize soil compaction.
18. Preserve and protect topsoil for use in vegetation establishment;
19. Manage stockpiles or land clearing debris composed, in whole or in part, of sediment and/or soil:
  - (a) Locate the stockpiles outside of any natural buffers established under Part III.B., and away from any stormwater conveyances, storm drain inlets, and areas where stormwater flow is concentrated;
  - (b) Install a sediment barrier along all downgradient areas;
  - (c) Stockpiles that will not be used for 13 days or more, provide cover or appropriate temporary stabilization;
20. Sediment basin, impoundments, or detention/retention basins used as a sediment basin during construction shall be installed and stabilized prior to commencement of other construction activities:
  - (a) Locate the basin or impoundment outside of any water of the State;
  - (b) Design basin or impoundment to provide appropriate storage for 3,600 cubic feet per acre drained;
  - (c) Utilize outlet structures that withdraw water from the surface of the sediment basin or impoundment;
  - (d) Use erosion controls and velocity dissipation devices to prevent erosion at inlets and outlets; and
  - (e) Remove accumulated sediment to maintain at least one-half of the design capacity and conduct all other appropriate maintenance to ensure basin or impoundment remains in effective operating condition.
21. Treatment chemicals (e.g. polymers, flocculants, coagulants):
  - (a) Use conventional erosion and sediment controls before and after the application of treatment chemicals. Treatment chemicals may only be applied where treated stormwater is directed to a sediment control practice (e.g., sediment basin, perimeter control) that allows for on-site particle settlement before final discharge;
  - (b) Select appropriate treatment chemicals. Chemicals must be appropriately suited to the soil likely to be exposed during construction and present in the discharges being treated (i.e., the expected turbidity, pH, and flow rate of the stormwater flowing into the chemical treatment system or area);
  - (c) Ensure proper chemical storage of all treatment chemicals, such as in leak-proof containers, spill proof pallets, covered storage, or in secondary containment designed and maintained to minimize the potential discharge of treatment chemicals in stormwater or by any other means; and
  - (d) Use chemicals in accordance with good engineering practices and specification of the chemical provider/supplier. Use treatment chemicals and chemical treatment systems in accordance with dosing specifications and sediment removal design specification provided by the provider/supplier of the applicable chemicals.
22. Additional Design Requirements
  - (a) Sediment control measures, erosion control measures, and other site management practices must be properly selected based on site-specific conditions and must meet or exceed the technical guidance outlined in the Alabama Handbook and the site-specific CBMPP prepared in accordance with Part III.E;
  - (b) Unless specified otherwise by the Alabama Handbook, sediment control measures, erosion control measures, and other site management practices shall be designed and maintained to minimize erosion and maximize sediment removal resulting from a 2-year, 24-hour storm event.; and
  - (c) The Permittee is encouraged to design the site, the erosion prevention measures, sediment control measures, and other site management practices with consideration of minimizing stormwater runoff, both during and following construction, including facilitating the use of low-impact development (LID) and green infrastructure. The Alabama Low Impact Development Handbook for the State of Alabama (LID Handbook) can be found at the following link: <http://adem.alabama.gov/programs/water/waterforms/LIDHandbook.pdf>

## **B. Provide Natural Riparian Buffers or Equivalent Sediment Controls**

Natural riparian buffer requirements apply to all waters of the State adjacent to construction sites or contained within their overall project boundary. A 25-foot natural riparian buffer zone adjacent to all waters of the State at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The natural riparian buffer should be preserved between the top of stream bank and the disturbed construction area. The water quality buffer zone aids in the protection of waters of the State (e.g., perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project. Natural riparian buffers are not primary sediment control measures and should not be relied on as such. The natural riparian buffer requirement applies to new construction sites, or new additional acreage not previously covered by the initial permit.

### **1. Compliance Alternatives**

- (a) Provide and maintain a 25-foot undisturbed natural riparian buffer;
    - (i) If land disturbances are located 25 feet or farther from surface water, then compliance with this alternative has been achieved.
    - (ii) Rehabilitation and enhancement of a natural riparian buffer is allowed, if necessary, for improvement for its effectiveness of protection of the waters of the State.
    - (iii) Any preexisting structures (e.g., buildings, parking lots, roadways, utility lines, structures, impervious surfaces) are allowed in the natural riparian buffer; provided the Permittee retains and protects from disturbance any additional natural buffer area contained within the natural riparian buffer but outside the preexisting structures footprint.
  - (b) Provide and maintain an undisturbed natural riparian buffer that is less than 25 feet and is supplemented by additional erosion and sediment controls, which in combination achieves the sediment load reduction equivalent to a 25-foot undisturbed natural riparian buffer;
  - (c) If it is infeasible to provide and maintain an undisturbed natural riparian buffer of any size, the Permittee must implement erosion and sediment controls that achieve the sediment load reduction equivalent to a 25-foot undisturbed natural riparian buffer;
  - (d) All discharges from the area of earth disturbance to the natural riparian buffer must first be treated by erosion and sediment control on the site. Velocity dissipation devices should be used if necessary to prevent erosion caused by stormwater within the natural riparian buffer;
  - (e) All compliance alternatives must be documented in the CBMPP and comply with all requirements. The natural riparian buffer boundary should be indicated on the site plan;
  - (f) Compliance alternatives must be maintained throughout the duration of permit coverage; and
  - (g) All natural riparian buffer areas should be delineated and clearly marked off with flags, tape, or similar marking device.
2. If there is no discharge of stormwater to waters of the State through the areas between the construction site and any waters of the State located within 25 feet of the construction site, compliance with this requirement is achieved;
  3. Where no natural riparian buffer exists due to preexisting development disturbances (e.g., buildings, parking lots, roadways, utility lines, structures, impervious surfaces) that occurred prior to the initiation of planning for the current development of the site, the Permittee is not required to comply with the requirements in this section, unless portions of the preexisting development will be removed;
  4. Where some natural riparian buffer exists but portions of the area within 25 feet of the waters of the State are occupied by preexisting development disturbances (e.g., buildings, parking lots, roadways, utility lines, structures, and impervious surfaces), the Permittee is required to comply with the requirements in this section. Only the portion of the buffer zone that contains the footprint of the existing “structure” is exempt from the natural riparian buffer. Activities necessary to maintain uses are allowed provided that no additional vegetation is removed from the natural riparian buffer;
  5. For “linear construction projects” the Permittee is not required to comply with the requirements in this section if site constraints (e.g., limited right-of-way) prevent the Permittee from meeting any of the compliance alternatives provided that, to the extent practicable, disturbances within 25 feet of the water of the State are limited and/or supplemental erosion and sediment controls to treat stormwater discharges from earth disturbances within 25 feet of the waters of the State are provided. It must be documented in the CBMPP as to why compliance with this section is infeasible and describe any buffer width retained and/or supplemental erosion and sediment controls installed; and

6. The following disturbances within 25 feet of a water of the State are exempt from the requirements in this Part:
  - (a) Construction approved under a CWA Section 404 permit; or
  - (b) Construction of a water-dependent structure or water access area (e.g., pier, boat ramp, seawall, bridge, drainage structure, trail, etc.)

**C. Soil Stabilization**

The Permittee should minimize, as feasible, the area disturbed to maintain the natural soil cover for stability. The Permittee must stabilize the exposed bare soil portions of the site:

1. Implement and maintain stabilization measures (e.g., seeding protected by erosion controls until vegetation is established, sodding, mulching, erosion control blankets, hydromulch, gravel) that minimize erosion from exposed portions of the site.
2. Temporary stabilization of disturbed areas must be initiated immediately whenever work toward project completion and final stabilization of any portion of the site has temporarily ceased on any portion of the site and will not resume for a period exceeding thirteen (13) calendar days.
3. Final stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating, or other earth disturbing activities have permanently ceased on any portion of the site.
4. The requirement to initiate stabilization immediately is triggered as soon as you know that construction work on a portion of the site is temporarily ceased and will not resume for more than thirteen (13) calendar days, or as soon as you know that construction work has permanently ceased. In the context of this provision, “immediately” means as soon as practicable, but no later than the end of the next business day, following the day when the construction activities have temporarily or permanently ceased.
5. Both temporary and permanent vegetation shall be completed as provided by the guidance in the Alabama Handbook.

**D. Pollution Prevention Measures**

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

1. Provide an effective means of minimizing the discharge of pollutants from equipment and vehicle washing, wheel wash water, concrete washout, washing applicators and/or containers used for stucco, paint, concrete, or other compounds/materials and other wash waters;
  - (a) Wash waters must be treated in a sediment basin or alternative control (e.g., sediment trap, filtration device, filter bags, or similar effective controls) that provides equivalent or better treatment prior to discharge;
  - (b) Liquid waste shall not be directly discharged into storm sewers;
  - (c) Washout and cleanout activities should be located as far away as possible from surface waters, natural buffer areas, stormwater inlets, and conveyances; and
  - (d) For storage of soaps, detergents, or solvents, provide either (1) cover (e.g., plastic sheeting or temporary roofs) to minimize exposure of these detergents to precipitation and to stormwater or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas.
2. Provide an effective means of minimizing the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater;
  - (a) Provide either (1) cover (e.g., plastic sheeting or temporary roofs) to minimize exposure of these detergents to precipitation and to stormwater or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas;
  - (b) Provide waste containers (e.g., dumpster, trash receptacle) of sufficient size and number to contain construction wastes;
  - (c) Locate waste containers as far away as possible from waters of the State and stormwater inlets or conveyances so that stormwater coming into contact with these activities cannot reach water of the State;
  - (d) For sanitary waste, position portable toilets so that they are on level ground and are located as far away as possible from waters of the State and stormwater inlets or conveyances; and
  - (e) Comply with all application and disposal requirements included on the fertilizer, pesticide, herbicide, or detergent label.

3. Provide an effective means of minimizing the discharge of pollutants caused by spills and leaks from, including but not limited to, vehicles, mechanical equipment, chemical storage, and refueling activities;
  - (a) Locating activities away from waters of the State and stormwater inlets or conveyances so that stormwater coming into contact with these activities cannot reach water of the State;
  - (b) Providing secondary containment and cover where appropriate;
  - (c) Ensure adequate supplies are available at all times to handle spills, leaks, and disposal of used liquids. Have a spill kit available on site and ensure personnel are available and trained to respond expeditiously in the event of a leak or spill; and
  - (d) Clean up spills or contaminated surfaces immediately (do not clean contaminated surfaces by hosing the area down) and eliminate the source of the spill to prevent a discharge or a continuation of an ongoing discharge.
4. Apply treatment chemicals at the site only where treated stormwater is directed to a sediment control (e.g., sediment basin, perimeter control) that allows for on-site particle settlement before final discharge.

**E. Construction Best Management Practices Plan (CBMPP)**

1. Except as provided by Part II.F.2, construction activity may not commence until a CBMPP has been prepared in a format acceptable to the Department and certified by a QCP as adequate to meet the requirements of this permit;
2. The NOI and CBMPP must be prepared in accordance with the requirements of this permit by the QCP prior to commencing construction at a new construction site or prior to continued construction at an existing construction site, or as otherwise required by the Director;
3. The Permittee shall properly implement and regularly maintain the controls, practices, devices, and measures specified in the CBMPP;
4. The CBMPP shall include:
  - (a) A general description of the construction site activity, including:
    - (i) The function of the construction site activity (e.g. residential subdivision, shopping mall, highway, etc.); and
    - (ii) Identification of all known operators of the construction site and the areas of the site over which each operator has control.
  - (b) A description of the intended sequence of major activities which disturb soils, including but not limited to, grubbing, excavation, and/or grading. The sequence shall be accomplished in a manner which minimizes the area disturbed at any one time and minimizes the duration that the areas are disturbed;
  - (c) Estimates of the total area expected to be disturbed by grubbing, excavation, and/or grading, including offsite borrow and fill areas (if areas are to be included in permit coverage);
  - (d) A detailed description (including but not limited to site specific dimensions, storage capacity, and drainage calculations are required for engineered BMPs) of the erosion controls, sediment controls, and management practices to be implemented at the site during each sequence of activity in accordance with Part III.A;
  - (e) A clear outline and identification of the 25-foot natural riparian buffer for all sites that discharge directly to waters of the State and where a water of the State lies within the boundaries of the project;
  - (f) A detailed description of controls needed to meet State water quality standards, waste load allocations, or other measures necessary for consistency with applicable TMDLs finalized or approved by EPA;
    - (i) Provide a calculation based on the control measures to be implemented for the pollutant of concern to confirm the controls as designed in the CBMPP meet the required percent reduction for the applicable TMDL;
    - (ii) Reduction capabilities shall assume the control measures have been appropriately installed and maintained. See Part III.L.2.
  - (g) A detailed description of BMPs needed to prevent or eliminate discharges of sediment and other pollutants of concern from priority construction sites;
  - (h) A description of temporary and permanent stabilization practices, including a schedule and/or sequence for implementation;
  - (i) A description of energy or flow velocity dissipation devices at discharge locations and along the length of any outfall channel;

- (j) Identification of all allowable sources of non-stormwater discharges listed in Part I.B.2, except for flows from firefighting activities that are or may be combined with stormwater discharges associated with construction activity at the site;
  - (k) A description of the pollution prevention measures used to manage non-stormwater discharges;
  - (l) A description of the best management practices to be installed during site construction and operated and maintained following final stabilization at sites where the post-construction volumes or velocities of stormwater runoff are significantly different from conditions existing prior to the construction activity;
  - (m) A listing of all treatment chemicals to be used at the site, including Safety Data Sheets (SDS), the dosage(s) to be used and the location(s) where these materials will be used;
  - (n) The most recent site topographic map (e.g. USGS quadrangle map or LIDAR contour map) at an appropriate contour interval, clearly showing:
    - (i) Sufficient detail to identify the location of the construction site;
    - (ii) Existing topography and drainage patterns and features, existing structures proposed roads, utilities, rights-of-way (ROWs), and waterbodies;
    - (iii) Drainage patterns and approximate slopes anticipated after major grading activities;
    - (iv) The external and internal (if subdivided) property boundaries of the project;
    - (v) Areas to be disturbed by excavation, grading, or other activities;
    - (vi) Identification of sediment control measures, erosion control measures, planned stabilization measures, and other site management practices;
    - (vii) Locations of all waters of the State within a one (1) mile radius of the site;
    - (viii) Locations of wetlands and riparian zones; and
    - (ix) Locations of all outfalls.
  - (o) A description of procedures for:
    - (i) Sweeping or removal and proper disposal or utilization of sediment and other debris that has been tracked from the site or deposited from the site onto streets and other paved surfaces;
    - (ii) Removal and proper disposal or utilization of sediment or other pollutants that have accumulated in or near any sediment control measures, stormwater conveyance channels, storm drain inlets, or water course conveyance within or immediately outside of the construction site; and
    - (iii) Removal and proper disposal or utilization of accumulated sediment that has been trapped by sediment control measures at the site, in accordance with applicable maintenance requirements covered under this permit;
  - (p) A description of the procedures for handling and disposing of wastes generated at the site, including, but not limited to, clearing and demolition debris, sediment removed from the site, construction and domestic waste, hazardous or toxic waste, and sanitary waste.
5. Maintain an Updated CBMPP
- (a) The CBMPP shall be updated as necessary to address changes in the construction activity, site weather patterns, new TMDLs finalized or approved by EPA, new 303(d) listings approved by EPA, or manufacturer specifications for specific control technologies;
  - (b) The CBMPP shall be amended if inspections or investigations by site staff or by local, state, or federal officials determine that the existing sediment control measures, erosion control measures, or other site management practices are ineffective or do not meet the requirements of this permit. All necessary modifications to the CBMPP shall be made within seven (7) calendar days following notification of the inspection unless granted an extension of time by the Department;
  - (c) If existing sediment control measures, erosion control measures, or other site management practices prove ineffective in protecting water quality or need to be modified; or if additional sediment control measures, erosion control measures, or other site management practices are necessary to meet the requirements of this permit, implementation shall be completed as soon as possible, but not to exceed five (5) days of the observation or site inspection unless prevented by unsafe weather conditions. If unsafe weather conditions are present, they should be documented. If implementation before the next storm event is impracticable, then new land disturbance activities must cease until the modified or additional controls can be implemented; and

- (d) A copy of the CBMPP shall be maintained at the site during normal operating hours as defined by Part V of this permit when regulated land disturbing activities are occurring.

**F. Spill Prevention, Control, and Management**

1. The Permittee shall prepare, implement, and maintain a Spill Prevention, Control and Countermeasures (SPCC) Plan in accordance with 40 CFR Part 112 and ADEM Admin Code r.335-6-6-.12(r) for all applicable onsite petroleum storage tanks;
2. The Permittee shall prepare, implement, and maintain a SPCC Plan in accordance with ADEM Admin Code r.335-6-6-.12(r) for any stored pollutant(s) that may, if spilled, be reasonably expected to enter a water of the state or the collection system for a publicly or privately owned treatment works;
  - (a) The SPCC Plan(s) shall be maintained as a separate document or as part of the CBMPP Plan required in Part III.E. above;
  - (b) The Permittee shall implement appropriate structural and/or non-structural spill prevention, control, and/or management sufficient to prevent any spills of pollutants from entering a water of the State or a publicly or privately owned treatment works. The plan(s) must be consistent with the requirements of 40 CFR Part 112 and/or ADEM Admin Code r.335-6-6-.12(r). Any containment system used to implement this requirement shall be constructed of materials compatible with the substance(s) contained and of materials which shall prevent the contamination of groundwater and shall be capable of retaining 110 percent of the volume of the largest container of pollutants for which the containment system is provided;
  - (c) The Permittee shall maintain onsite or have readily available sufficient oil & grease absorbing material and flotation booms to contain and clean-up fuel or chemical spills and leaks; and
  - (d) Soil contaminated by paint or chemical spills, oil spills, etc. must be immediately cleaned up, remediated, or be removed and disposed of in a Department approved manner.
3. Discharges of toxic or hazardous substances from a spill to other release or prohibited, consistent with Part I.D.
  - (a) Where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR 110, 40 CFR 117, or 40 CFR 302 occurs during a 24-hour period, the National Response Center (NRC) must be notified at (800) 424-8802, in accordance with the requirements of 40 CFR 110, 40 CFR 117, or 40 CFR 302 as soon as the Permittee has knowledge of the release; and
  - (b) Within five (5) calendar days of knowledge of the release, the Permittee must provide a description of the release, the circumstances leading to the release, and the date of the release.

**G. Training**

Unless the Permittee has employed or contracted with a QCP that performs duties as required by this permit, and the QCP is readily available and able to be present onsite as often as is necessary to ensure full compliance with the requirements of this permit, the Permittee shall ensure that:

1. At least one onsite employee shall be certified as a Qualified Credentialed Inspector (QCI) by completing an initial training and annual refresher training course through an ADEM-approved Qualified Credentialed Inspector Program (QCIP) conducted by a cooperating training entity;
2. The QCIP must be approved by the Department prior to use and provide training in the following areas:
  - (a) The applicable requirements of the Alabama NPDES rules;
  - (b) The requirements of this permit;
  - (c) The evaluation of construction sites to ensure that erosion controls and sediment controls designed and certified by a QCP detailed in a site-specific CBMPP are effectively implemented and maintained;
  - (d) The evaluation of conveyance structures, receiving waters, and adjacent impacted offsite areas to ensure the protection of water quality and compliance with the requirements of this permit; and
  - (e) The general operation of a turbidity meter or similar device intended for the measurement of turbidity.
3. Each individual holding a QCI Certification need not be on-site continuously and they may conduct site inspections at multiple sites permitted by them or their employer;
4. Each individual holding QCI certification shall obtain annual certification of satisfactory completion of formal refresher education or training regarding general erosion controls and sediment controls, the requirements of this permit, and the general operation of a turbidity meter or similar device intended for the measurement of turbidity. The refresher training

requirements, including but not limited to, appropriate curricula, course content, course length, and any participant testing, shall be subject to acceptance by the Director prior to use.

## **H. Inspection Requirements**

### **1. Pre-Construction Observations**

- (a) A pre-construction site inspection shall be conducted prior the placement of any BMPs, or the commencement of land disturbing activities.
- (b) Pre-construction site inspection shall consist of a complete and comprehensive inspection of the entire proposed construction site including all proposed areas of land disturbance, proposed areas used for storage of materials that may be exposed to precipitation, affected ditches, and other stormwater conveyances, as well as all proposed outfalls, receiving waters and stream banks to determine if there are pre-existing areas of concern.
- (c) Pre-construction inspections shall be conducted by the QCP, or by a qualified person under the direct supervision of a QCP;
- (d) The inspection shall be documented and made available to the Department upon request;
- (e) Pre-construction inspection shall include dated electronic photographic documentation of all areas described in paragraph (b) above; and
- (f) The Permittee shall maintain record of the pre-construction site inspection pursuant to Part IV.K.

### **2. Daily Observations**

- (a) Each day there is activity at the site, the Permittee shall visually observe that portion of the construction project where active disturbance, work, or construction occurred to note any rainfall measurements occurring since the previous observation and any apparent BMP deficiencies in the area of active disturbance;
- (b) Such daily observations may be performed by appropriate site personnel; and
- (c) The Permittee shall maintain a log of all daily observations and record in such log any rainfall measurements and BMP deficiencies observed.

### **3. Site Inspections**

- (a) Site inspections shall be performed by a QCI, QCP, or a qualified person under the direct supervision of a QCP;
- (b) A site inspection shall consist of a complete and comprehensive observation of the entire construction site including all areas of land disturbance, areas used for storage of materials that are exposed to precipitation, equipment storage and maintenance areas, affected ditches and other stormwater conveyances, as well as all outfalls, receiving waters, and stream banks to determine if, and ensure that:
  - (i) Effective erosion controls and sediment controls have been fully implemented and maintained in accordance with this permit, the site CBMPP, and the Alabama Handbook;
  - (ii) Pollutant discharges are being prevented/minimized; and
  - (iii) Discharges do not result in a contravention of applicable State water quality standards for the receiving stream(s) or other waters impacted or affected by the Permittee.
- (c) For non-linear projects, a site inspection shall be performed once each month and after any qualifying precipitation event since the last inspection, commencing as promptly as possible, but no later than 24-hours after resuming or continuing active construction or disturbance and completed no later than 72-hours following the qualifying precipitation event;
- (d) For linear projects, a site inspection shall be performed at least once a month and after any qualifying precipitation event since the last inspection, beginning as promptly as possible, but no later than 24-hours after resuming or continuing active construction or disturbance and completed no later than five (5) days after the qualifying precipitation event, on areas of active construction and/or where perennial vegetation has not been fully established, or meeting the definition of final stabilization;
- (e) A site inspection shall also be performed as often as is necessary until any poorly functioning erosion controls or sediment controls, non-compliant discharges, or any other deficiencies observed during a prior inspection are corrected and documented as being in compliance with the requirements of this permit;
- (f) On all active disturbance, dredging, excavation, or construction undertaken or located within the banks of a waterbody, including but not limited to, equipment/vehicle crossings, pipelines, or other transmission line installation, conveyor structure installation, and waterbody relocation, streambank stabilization, or other alterations, a site inspection shall



be performed at least once a week and as often as is necessary until the disturbance/activity impacting the waterbody is complete and reclamation or effective stormwater quality remediation is achieved;

- (g) The inspection shall be recorded in a written format acceptable to the Department. The inspection record shall include:
- (i) The site name and location, date and entry/exit time, outfall identification(s), date, time and exact place of any turbidity sampling performed;
  - (ii) The name(s) of person(s) who performed the inspection and/or obtained any turbidity samples or measurements;
  - (iii) The analytical results of any samples or measurements performed;
  - (iv) A description of any sampling and analytical techniques or methods used, including source of method and method number;
  - (v) Weather conditions at the time of the inspection;
  - (vi) Description of any discharges of sediment or other pollutants from the site;
  - (vii) Locations of discharges of sediment or other pollutants from the site;
  - (viii) Locations of BMPs that need repair, replacement and/or maintenance;
  - (ix) Locations of BMPs that failed to operate as designed;
  - (x) Locations where BMPs required by the CBMPP are not installed or installed in a manner inconsistent with the CBMPP; and
  - (xi) Locations where additional BMPs are needed that did not exist at the time of the inspection. This requirement is applicable only to site inspections performed by a QCP or qualified persons under the direct supervision of a QCP.
- (h) Results of all required inspections shall be available for inspection no later than 15 days following the date of the inspection, monitoring, or sampling; and
- (i) Reports shall be legible and bear an original signature or in the case of electronic reports, an electronic signature.

#### 4. CBMPP Evaluations

- (a) The QCP shall perform an onsite evaluation of all erosion and sediment controls being implemented for adequacy and consistency with site conditions;
- (b) The CBMPP evaluation shall be performed as often as necessary until poorly functioning or damaged erosion controls or sediment controls are corrected and, at a minimum, once every three (3) months for a priority construction site or once every six (6) months for non-priority construction site;
- (c) If, based on the CBMPP evaluation, the QCP identifies any needed modifications or additions to erosion and sediment controls, the CBMPP shall be updated in accordance with Part III.E.4; and
- (d) The Permittee shall maintain appropriate documentation of the CBMPP evaluation.

#### **I. Corrective Action**

1. Any poorly functioning erosion controls or sediment controls, non-compliant discharges, or any other deficiencies observed during daily observations or site inspections required under Part III.H, shall be corrected as soon as possible, but not to exceed five (5) days of the observation or site inspection unless prevented by unsafe weather conditions. If unsafe weather conditions are present, they should be documented.
2. In the event of a breach of a sediment basin/pond temporary containment measures shall be taken within 24 hours after the inspection. Permanent corrective measures shall be implemented within five (5) days of the inspection. However, if permanent corrective measures cannot be implemented within the timeframes provided herein the Permittee shall notify the Department; and
3. The operator shall promptly take all reasonable steps to remove, to the maximum extent practical, pollutants deposited offsite or in any waterbody or stormwater conveyance structure.

#### **J. Suspension of Monitoring**

Suspension of applicable monitoring and inspection requirements for phased projects or developments may be granted provided:

1. The Department is notified in writing at least thirty (30) days prior to the requested suspension;

2. The Permittee and the QCP certify in the request that all disturbance has been graded, stabilized, and/or fully vegetated or otherwise permanently covered, and that appropriate, effective steps have been and will be taken by the Permittee to ensure compliance with the requirements of this permit and commit that these measures will remain continually effective until the permit is properly terminated;
3. The request should be accompanied by a construction stormwater inspection report confirming permanent stabilization of all previously disturbed areas, including material storage areas, and associated support activities. In addition, photo documentation may be submitted for confirmation purposes; and
4. The Permittee notifies the Department in writing within fifteen (15) days prior to resumption of disturbance or commencement of the next phase of development and the Permittee complies with the requirements of this Permit prior to commencement of additional disturbance.

**K. Precipitation Measurement**

1. The Permittee shall measure and record all precipitation occurring at the construction site (including rainfall and snowfall). Precipitation measurements must be representative of the Permittee's site. Records shall be maintained and available for inspection.
2. Precipitation measurements should be read and recorded during normal operating hours, even if no precipitation occurs. To facilitate determination of a qualifying precipitation event, the measuring device or method should have a scale that is readable to 0.5 inches or smaller unit.
3. Recording of rainfall outside of normal operating hours may be read and recorded on the next business day and noted as "accumulated." If the outside of normal operating hours accumulation is greater than 0.75 inches, a qualifying rainfall event inspection must occur regardless of whether that accumulation occurred over 24 hours, as described in Part III.H.
4. Precipitation measurements shall be taken using one or more of the following:
  - (a) Continuous recorders,
  - (b) Daily readings of an onsite rain gauge,
  - (c) Daily readings of an offsite precipitation gauge located adjacent to or in close proximity (for non-linear projects a maximum one (1) mile distance) to the facility, or
  - (d) Other measurement devices acceptable to the Department (e.g., online resources).

**L. Impaired Waters and Total Maximum Daily Load (TMDL) Waters**

1. Permittees discharging from construction sites into waters included on the latest EPA Approved §303(d) List or designated by the Department as impaired.
  - (a) The Permittee must determine whether the discharge from any part of the construction site contributes directly or indirectly to a waterbody that is included on the latest EPA Approved §303(d) List or designated by the Department as impaired.
  - (b) If the construction site discharges either directly or indirectly to a waterbody included on the latest EPA Approved §303(d) List or designated by the Department as impaired, then the CBMPP must detail the BMPs that are being utilized to control discharges of pollutants of concern associated with the impairment of the waterbody.
  - (c) The Permittee must demonstrate the discharges, as controlled by the Permittee, and in conjunction with the implementation of the CBMPP, do not cause or contribute to the impairment of the waterbody.
  - (d) If during this permit cycle a new EPA Approved §303(d) List is published, or Department designation, includes any waterbody into which the construction site discharges, the Permittee and QCP must review the CBMPP and the site to determine if existing BMPs are sufficient and discharges do not cause or contribute to the impairment of the waterbody. If existing BMPs are not sufficient to achieve this demonstration, the Permittee must, within sixty (60) days following the publication of the latest final §303(d) List, Department designation, or the effective date of this permit, submit a revised CBMPP detailing new or modified BMPs. The CBMPP must be revised as directed by the Department and the new or modified BMPs must be implemented within ninety (90) days from the publication of the latest final §303(d) list or Department designation.
2. Permittees discharging from construction sites into waters with EPA-Approved TMDLs and/or EPA-Established TMDLs
  - (a) The Permittee must determine whether its construction site discharges to a waterbody for which a TMDL has been established or approved by EPA.
  - (b) If a construction site discharges into a water body with an EPA approved or established TMDL, then the CBMPP must include BMPs targeted to control the discharges of pollutants of concern and to meet the assumptions and requirements

of the TMDL. If additional BMPs will be necessary to meet the requirements of the TMDL, the CBMPP must include a schedule for installation and/or implementation of such BMPs.

- (c) If, during this permit cycle, a TMDL is approved by EPA or a TMDL is established by EPA for any waterbody into which a construction site discharges, the Permittee must review the applicable TMDL to see if it includes requirements for control of storm water discharges from the construction site.
- (d) If it is found that the Permittee must implement specific allocations of the TMDL, it must assess whether the assumptions and requirements of the TMDL are being met through implementation of existing BMPs or if additional BMPs are necessary. The CBMPP must include BMPs targeted to meet the assumptions and requirements of the TMDL. If existing BMPs are not sufficient, the Permittee must, within sixty (60) days following the approval or establishment of the TMDL by EPA, submit a revised CBMPP detailing new or modified BMPs to be utilized along with a schedule of installation and/or implementation of such BMPs. Any new or modified BMPs must be implemented within ninety (90) days, unless an alternate date is approved by the Department, from the establishment or approval of the TMDL by EPA.

## **PART IV: Standard and General Permit Conditions**

### **A. Duty to Comply**

1. The Permittee must comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the AWPCA and the FWPCA and is grounds for: enforcement action, termination, or suspension of coverage under this permit; denial of a NOI for renewal; a requirement that the Permittee submit an application for an individual NPDES permit.
2. For any violation(s) of this Permit, the Permittee may be subject to a civil penalty as authorized by the AWPCA, the FWPCA, and Code of Alabama 1975, §§22-22A-1 et. seq., as amended, and/or a criminal penalty as authorized by Code of Alabama 1975, §22-22-1 et. seq., as amended.
3. The discharge of a pollutant from a source not specifically identified in the NOI to be covered under this Permit and not specifically included in the description of an outfall (where applicable) in this permit is not authorized and shall constitute noncompliance with this permit.
4. Nothing in this Permit shall be construed to preclude or negate the Permittee's responsibility or liability to apply for, obtain, or comply with other ADEM, federal, state, or local government permits, certifications, licenses, or other approvals.

### **B. Duty to Reapply**

1. The Permittee authorized to discharge under this General Permit, who wishes to continue to discharge upon the expiration of this permit, shall submit a NOI to be covered by the reissued General Permit. Such NOI shall be submitted at least 30 days prior to the expiration date of this General Permit.
2. Failure of the Permittee to submit a complete NOI for reauthorization under this permit at least 30 days prior to the permit's expiration will void the automatic continuation of the authorization to discharge under this permit as provided by ADEM Admin. Code r. 335-6-6-.06. Should the permit not be reissued for any reason prior to its expiration date, Permittees who failed to meet the 30-day submittal deadline will be illegally discharging without a permit after the expiration date of the permit.

### **C. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce construction activities in order to maintain compliance with the conditions of the permit.

### **D. Duty to Mitigate**

The Permittee shall take all reasonable steps to mitigate or prevent any violation of the permit or to minimize or prevent any adverse impact of any permit violation.

### **E. Proper Operation and Maintenance**

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities only when necessary to achieve compliance with the conditions of this permit.

### **F. Permit Modification, Revocation and Reissuance, Suspension, and Termination**

1. During the term of this General Permit the Director may, for cause, and subject to the public notice procedure of ADEM Administrative Code r. 335-6-6-21, modify or revoke and reissue this General Permit. The causes for this action include the causes listed below:
  - (a) When the Director receives any information that was not available at the time of permit issuance and that would have justified the application of different permit conditions at the time of issuance;
  - (b) When the standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued;
  - (c) Upon failure of the state to notify, as required by Section 402(b)(3) of the FWPCA, another state whose waters may be affected by a discharge;
  - (d) When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology based treatment requirements appropriate to the discharge under 40 CFR 125.3(c)(1994);

- (e) To correct technical mistakes, such as errors in calculations, or mistaken interpretations of the law made in determining permit conditions;
  - (f) When the permit limitations are found not to be protective of water quality standards; or
  - (g) For any applicable cause set forth in 40 CFR Sections 122.61, 122.62, 122.63, and 122.64 (1994).
2. Subject to the public notice procedures of rule 335-6-.6-21, the Director may terminate this General Permit during its term for any of the causes for modification listed in ADEM Admin Code r. 335-6-6-.23(7)(a).
  3. The Director may terminate coverage of a discharge under this general permit for cause. Cause shall include, but not be limited to, noncompliance with Department rules; or a finding that the general permit does not control with wastewater discharge sufficiently to protect water quality or comply with treatment-based limits applicable to the discharge.
  4. Any person may petition the Director for withdrawal of this General Permit authority from a discharger. The Director shall consider the information submitted by the petitioner and any other information he may be aware of and may obtain additional information from the discharger and through inspections by Department staff and shall decide if coverage should be withdrawn. The petitioner shall be informed of the Director's decision and shall be provided a summary of the information considered.

#### **G. Property Rights**

This permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, or any infringement of federal, state, or local laws or regulations, nor does it authorize or approve the construction of any physical structures or facilities or the undertaking of any work in any waters of the State or of the United States.

#### **H. Duty to Provide Information**

1. The Permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and re-issuing, suspending, or terminating this permit or to determine compliance with this Permit. The Permittee shall also furnish to the Director upon request, copies of records required to be kept by this Permit.
2. The Permittee shall inform the Director in writing of any change in the Permittee's mailing address or telephone number or in the Permittee's designation of a facility contact or officer having the authority and responsibility to prevent and abate violations of the AWPCA, the Department's rules and the terms and conditions of this permit no later than ten (10) days after such change. Upon request of the Director, the Permittee shall furnish an update of any information provided in the NOI.
3. If the Permittee becomes aware that it failed to submit any relevant facts in the NOI; or submitted incorrect information in the NOI; or in any report to the Director, it shall promptly submit such facts or information with a written explanation for the mistake and/or omission.
4. All information and/or documents required to be submitted to the Department by this general permit shall be submitted via the AEPACS, which can be accessed at the following link, <http://adem.alabama.gov/AEPACS>, or delivered to the following address: Alabama Department of Environmental Management Water Division, Stormwater Management Branch, Post Office Box 301463, Montgomery, Alabama 36130-1463, or 1400 Coliseum Boulevard, 36110-2400, Montgomery, Alabama.

#### **I. Inspection and Entry**

The Permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:

1. Enter upon the Permittee's premises where a regulated activity is located or conducted, or where records must be kept under the conditions of this Permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the AWPCA, any activities, substances or parameters at any location.

**J. Noncompliance Notification**

1. The Permittee must notify the Department if, for any reason, the Permittee's discharge:
  - (a) Potentially threatens human health or welfare;
  - (b) Threatens fish or aquatic life;
  - (c) Causes an in-stream water quality criterion as stated in ADEM. Admin. Code Ch. 335-6-10 to be exceeded;
  - (d) Does not comply with an applicable toxic pollutant effluent standard or prohibition established under Section 307(a) of the FWPCA, 33 U.S.C. §1317(a); or
  - (e) Contains a quantity of a hazardous substance which has been determined may be harmful to the public health or welfare under Section 311(b)(4) of the FWPCA, 33 U.S.C. §1321(b)(4).
2. The Permittee shall orally report the occurrences, describing the circumstances and potential effects of such discharge to the Director no later than 24-hours after the Permittee becomes aware of the occurrence of such discharge. In addition to the oral report, the Permittee shall submit to the Director a written report as provided in Part IV.J.3 below, no later than five (5) days after becoming aware of the occurrence of such discharge.
3. The written report shall be in a format acceptable to the Department and shall include:
  - (a) A description of the noncompliant event, its cause, if known, and location;
  - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - (c) A description of the steps taken and/or being taken to reduce or eliminate the noncomplying discharge and to prevent its recurrence.

**K. Retention of Records**

1. The Permittee shall retain records of all inspection records, monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete such reports, for a period of at least three (3) years from the date of the inspection, sample measurement, or report. This period may be extended by request of the Director at any time. If litigation or other enforcement action, under the AWPCA and/or the FWPCA, is ongoing which involves any of these records, the records shall be kept until the litigation is resolved.
2. All records required to be kept for a period of three (3) years shall be kept at the permitted facility or an alternate location identified to the Department in writing and shall be available for inspection upon request.

**L. Signatory Requirements**

The NOI and all reports or information submitted to the Director shall be signed and certified according to the requirement of ADEM Admin Code r. 335-6-6-.09. Where required by this Permit, documents will also be signed by a QCP or QCI.

**M. Transfers**

This Permit may not be transferred without notice to the Director and subsequent modification or revocation and reissuance of this Permit. In the case of a change in name, ownership, or control of the Permittee's premises, a request for permit modification in a format acceptable to the Director is required within fifteen (15) days of the change occurring.

**N. Bypass**

Any bypass of erosion controls, sediment controls, or any other stormwater management/treatment controls specified in the CBMPP is prohibited except as provided by ADEM Admin Code r. 335-6-6-.12(m).

**O. Upset**

1. Effect of an Upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit limitation if the requirements of subparagraph 335-6-6-.12(n)2. are met.
2. Conditions Necessary for Demonstration of an Upset. A Permittee who wishes to establish the affirmative defense of an upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (a) An upset occurred and that the Permittee can identify the specific cause(s) of the upset;
  - (b) The treatment facility was at the time being properly operated;
  - (c) The Permittee submitted notice of the upset as required in subparagraph 335-6-6-.12(l)6.; and

(d) The Permittee complied with any remedial measures required under paragraph 335-6-6-.12(d).

3. Burden of Proof. In any enforcement proceeding the Permittee seeking to establish the occurrence of an upset has the burden of proof.

**P. 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.

**Q. Issuance of an Individual Permit**

The Director may require the Permittee to obtain an individual permit for discharges covered by this permit in accordance with ADEM Admin. Code r. 335-6-6-.23(9).

**R. Request for Individual Permit by General Permit Holder**

1. Any person covered by this General Permit may apply for termination of coverage by applying for an individual NPDES permit.
2. A permit application submitted voluntarily or at the direction of the Director for the purpose of termination of coverage by this General Permit shall be processed in accordance with the rules found in ADEM Admin. Code Ch. 335-6-6 applicable to individual permits.

**S. Termination of Coverage**

1. The Director may suspend or terminate coverage under this permit for cause without the consent of the Permittee. Cause shall include, but not be limited to, noncompliance with this permit or the applicable requirements of Department rules, or a finding that this permit does not control the stormwater discharge sufficiently to protect water quality.

2. Voluntary Notice of Termination – Initiated by Permittee

The Permittee must submit a Notice of Termination (NOT) request electronically, using the Department’s AEPACS at <http://adem.alabama.gov/AEPACS> , within thirty (30) days of one of the following conditions:

- (a) Final stabilization as defined in Part V has been achieved on all portions of the site;
- (b) Another operator has assumed control over all areas of the site that have not achieved final stabilization and the new operator has submitted an NOI for coverage under this permit; or
- (c) Coverage under an individual permit or alternative general permit has been obtained.

3. Content of the Voluntary Notice of Termination

- (a) The Permittee name, permit number, and location of the site;
- (b) Certification by the Permittee and the QCP that all construction activity covered by this permit has been completed, all temporary BMPs have been removed and final stabilization has been achieved; or
- (c) Identification, including complete contact information, of the person that has assumed legal or operational control over the construction site.
  - (i) Loss of operational control does not relieve the operator from liability and responsibility for compliance with the provisions of this permit until the complete and correct request for termination is received by the Department.
  - (ii) Sale or transfer of operational responsibility for the site by the operator prior to the succeeding operator obtaining permit coverage required by this chapter does not relieve the operator from the responsibility to comply with the requirements of this permit.

**T. Facility Identification**

The Permittee shall post and maintain sign(s) at the front gate/entrance, and if utility installation, where project crosses paved county, State, or federal highways/roads, and/or at other easily accessible location(s) to adequately identify the site prior to commencement of and during NPDES construction until permit coverage is properly terminated. Such sign shall be legible and display the name of the Permittee, “ADEM NPDES ALR10” followed by the four-digit NPDES permit number, facility or project name, and other descriptive information deemed appropriate by the Permittee.

**U. Schedule of Compliance**

The Permittee shall achieve compliance with the requirements of this permit on the effective date of coverage under this permit.

**V. Discharge of Wastewater Generated by Others**

The discharge of wastewater generated by any process, facility, or by any other means not under the operational control of the Permittee or not identified in the application for this permit or not identified specifically in the description of an outfall in this permit is not authorized by this permit except as allowed by Part I.

**W. Compliance with Water Quality Standards and Other Provisions**

1. On the basis of the Permittee's application, plans, or other available information, the Department has determined that compliance with the terms and conditions of this Permit will assure compliance with applicable water quality standards. However, this Permit does not relieve the Permittee from compliance with applicable State water quality standards established in ADEM Admin. Code Ch. 335-6-10, and does not preclude the Department from taking action as appropriate to address the potential for contravention of applicable State water quality standards which could result from discharges of pollutants from the permitted facility.
2. Compliance with Permit terms and conditions notwithstanding, if the Permittee's discharge(s) cause(s) or contribute(s) to a condition in contravention of State water quality standards, the Department may require abatement action to be taken by the Permittee, modify the Permit pursuant to the Department's rules and regulations, or both.
3. If the Department determines, on the basis of any investigation, inspection, or sampling, that a modification of this Permit is necessary to assure maintenance of water quality standards or compliance with other provisions of the AWPCA or FWPCA, the Department may require such modification and, in cases of emergency, the Director may prohibit the noticed act until the Permit has been modified.

**X. Civil and Criminal Liability**

1. Tampering: Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained or performed under this Permit shall, upon conviction, be subject to penalties and/or imprisonment as provided by the AWPCA and/or the AEMA.
2. False Statements: Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished as provided by applicable State and federal law.
3. Permit Enforcement: This NPDES Permit is a Permit for the purpose of the AWPCA, the AEMA, and the FWPCA, and as such all terms, conditions, or limitations of this Permit are enforceable under State and federal law.
4. Relief From Liability: Except as provided in Part IV.M. (Bypass) and Part IV.N. (Upset), nothing in this Permit shall be construed to relieve the Permittee of civil or criminal liability under the AWPCA, AEMA, or FWPCA for noncompliance with any term or condition of this Permit.

**Y. 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 under Section 311 of the FWPCA, 33 U.S.C. §1321.

**Z. Availability of Reports**

Except for data determined to be confidential under Code of Alabama 1975, §22-22-9(c), all reports prepared and submitted in accordance with the terms of this Permit shall be available for public inspection at the offices of the Department or the Department's electronic filing system (eFile) at <http://app.adem.alabama.gov/eFile/>. Effluent data shall not be considered confidential. Knowingly making any false statement in any such report may result in the imposition of criminal penalties as provided for in Section 309 of the FWPCA, 33 U.S.C. §1319, and Code of Alabama 1975, §22-22-14.

**AA. Coastal Zone Management for Baldwin and Mobile Counties**

1. Except for those activities described in Part IV.AA.2 below, this permit is conditionally consistent with the Alabama Coastal Area Management Plan (ACAMP) upon continued compliance with the ACAMP.
2. The Permittee shall obtain, as appropriate, a coastal permit or coastal consistency determination from the Department if any activity constitutes a use as described in ADEM Admin. Code r. 335-8-1-.08, 335-8-1-.09, 335-8-1-.10 or 335-8-1-.11.

**BB. Removed Substances**

Solids, sludges, or any other pollutants or other wastes removed in the course of treatment or control of stormwater shall be disposed of in a manner that complies with all applicable Department rules and regulations.



**CC. Compliance with Statutes and Rules**

1. This permit has been issued under ADEM Admin. Code Ch. 335-6-6. All provisions of this chapter, that are applicable to this permit, are hereby made a part of this permit. A copy of this chapter can be found on the ADEM website at: <http://adem.alabama.gov/alEnviroRegLaws/files/Division6Vol1.pdf>
2. This permit does not authorize the noncompliance with or violation of any Laws of the State of Alabama or the United States of America or any regulations or rules implementing such laws. FWPCA, 33 U.S.C. Section 1319, and Code of Alabama 1975, Section 22-22-14.

## **PART V: Definitions**

**2-year, 24-hour storm event** means the maximum 24-hour precipitation event with a probable recurrence interval of once in two years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, or equivalent regional or rainfall probability information developed there from.

**24-hour precipitation event** means that amount of precipitation which occurs within any 24-hour period.

**AEMA** means the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1, et seq.

**Alabama Handbook** means the current edition of the Alabama Handbook for Erosion Control, Sediment Control, and Stormwater Management on Construction Sites and Urban Areas, published by the Alabama Soil and Water Conservation Committee (ASWCC) at the time permit coverage is obtained.

**ADEM** means the Alabama Department of Environmental Management.

**Agricultural Practices** means practices commensurate with the size of the farming operation that are implemented in a manner that meet or exceed Natural Resources Conservation Service technical standards and guidelines, including but not limited to, farm ponds that are constructed for the primary purpose of irrigation and/or watering of livestock, terraces, grassed waterways, vegetative filter strips, cropland grade stabilization measures, drainage tiles, underground outlets, land leveling, dike/diversion structures, and other grade stabilization structures.

**AWPCA** means the Alabama Water Pollution Control Act.

**Best Management Practices or BMPs** means implementation and continued maintenance of appropriate structural and non- structural practices and management strategies to prevent and minimize the introduction of pollutants to stormwater and to treat stormwater to remove pollutants prior to discharge.

**Borrow Area "Pit"** means the activity of removing material (soil, gravel, sand) from one area to use in another area. For the purposes of this permit, this activity is solely in conjunction with the project requesting permit coverage and the material is not to be sold for profit. The borrow area and associated activity shall be located within a two-mile radius of the project requesting permit coverage to be considered as part of the project and will open and close with the project requesting permit coverage.

**Chronic and Catastrophic Precipitation** means precipitation events which may result in failure of the properly designed, located, implemented, and maintained BMPs or other structure/practices required by this permit. Catastrophic precipitation conditions means any single event of significant total volume, or of increased intensity and shortened duration, that exceeds normally expected or predicted precipitation over the time period that the disturbance is planned or is ongoing, as determined by the Department. Catastrophic conditions could also include tornadoes, hurricanes, or other climatic conditions which could cause failure due to winds or mechanical damage. Chronic precipitation is also that series of wet-weather conditions over a limited time-period which does not provide any opportunity for emergency maintenance, reinstallation, and corrective actions and which equals or exceeds the volume of normally expected or predicted precipitation for the time period that the disturbance is planned or is ongoing.

**Common Plan of Development or Sale** means any announcement or piece of documentation (e.g., sign, public notice, or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (e.g., boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot.

**Construction** means any land disturbance or discharges of pollutants associated with, or the result of building, excavation, land clearing, grubbing, placement of fill, grading, blasting, reclamation, areas in which construction materials are stored in association with a land disturbance or handled above ground and other associated areas including, but not limited to, construction site vehicle parking, equipment or supply storage areas, material stockpiles, temporary office areas, and access roads. Construction also means significant pre-construction land disturbance activities performed in support or in advance of construction activity including, but not limited to, land clearing, excavation, removal of existing buildings, dewatering, and geological testing. For the purposes of this Permit, any activity related to mining operations is excluded.

**Construction Activity** means the disturbance of soils associated with clearing, grading, excavating, filling of land, or other similar activities which may result in soil erosion. For the purposes of this Permit, construction activity does not include mining operations, agricultural and silvicultural practices. However, construction activity does include the construction of agricultural buildings.

**Construction Best Management Practices Plan (CBMPP)** means any research, planning considerations, systems, procedures, processes, activities, and practices implemented for the prevention and/or minimization of pollutants in stormwater to the maximum extent practicable, and collection, storage, treatment, handling, transport, distribution, land application, or disposal of construction stormwater and onsite management of construction waste generated by the construction activity, and to comply with the requirements of this permit. The CBMPP shall be prepared and certified, and when necessary updated by a qualified credentialed professional (QCP) in accordance with the requirements of this permit.

**Construction Site** means any site regardless of size where construction or construction associated activity has commenced, or is continuing, and associated areas, including sites where active work is suspended or has ceased, until the activity is completed and effective reclamation and/or stormwater quality remediation has been achieved.

**Construction Support Activity** a construction-related activity that specifically supports the construction activity solely related to the construction site covered under this permit and involves earth disturbance or pollutant-generating activities of its own, and may include activities including but not limited to equipment staging yards, materials storage areas, excavated material disposal areas, and temporary borrow areas.

**Construction Waste** means construction and land disturbance generated materials, including but not limited to, waste chemicals, sediment, trash, debris, litter, garbage, construction demolition debris, land clearing and logging slash, or other materials or pollutants located or buried at the site prior to disturbance activity or that is generated at a construction site.

**Control Measure** refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the State.

**CWA or The Act** means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.

**Department** means the Alabama Department of Environmental Management or an authorized representative.

**Director** means the Director of the Department or his designee.

**Discharge**, "[t]he addition, introduction, leaking, spilling or emitting of any sewage, industrial waste, pollutant or other waste into waters of the State." Code of Alabama 1975, §22-22-1(b)(8).

**EPA** refers to the U.S. Environmental Protection Agency.

**Ephemeral Stream** means a stream or portion of a stream which flows briefly in direct response to precipitation in the immediate vicinity and whose channel is at all times above the ground-water reservoir.

**Facility** see the definition for construction site

**Final Stabilization** means the application and establishment of the permanent ground cover (vegetative, pavements of erosion resistant hard or soft material, or impervious structures) planned for the site to permanently eliminate soil erosion to the maximum extent practicable. Established vegetation will be considered final if 100% of the soil surface is uniformly covered in permanent vegetation with a density of 85% or greater. Permanent vegetation shall consist of planted trees, shrubs, perennial vines; and/or an agricultural or a perennial crop of vegetation appropriate for the region and accomplished according to the Alabama Handbook. Final stabilization applies to each phase of construction.

**FWPCA** means the Federal Water Pollution Control Act

**Green Infrastructure** refers to systems and practices that use or mimic natural processes to infiltrate, evapotranspire (the return of water to the atmosphere either through evaporation or by plants), or reuse storm water or runoff on the site where it is generated.

**Intermittent Stream** means a stream where portions flow continuously only at certain times of the year. At low flow there may be dry segments alternating with flowing segments.

**Linear Project** means land disturbing activities conducted by an underground /overhead utility or highway department, including, but not limited to any cable line or wire for the transmission of electrical energy; any conveyance pipeline for transportation of gaseous or liquid substance; any cable line or wire for utility communications; or any other energy resource transmission ROW or utility infrastructure, e.g., roads and highways. Activities include the construction and installation of these utilities within a corridor. Linear project activities also include the construction of access roads, staging areas, and borrow/spoil sites associated with the linear project.

**Low Impact Development or LID** is an approach to the maintenance of predevelopment hydrology in land development (or re- development) that works with nature to manage storm water as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat storm water as a resource rather than a waste product.

**Maximum extent practicable (MEP)** means full implementation and regular maintenance of available industry standard technology and effective management practices, such as those contained in the Alabama Handbook and site-specific CBMPP, designed to prevent and/or minimize discharges of pollutants and ensure protection of groundwater and surface water quality.

**Mining Operations** shall mean all or any part of the process of recovering coal, lignite, iron, clay, sand, bauxite, gravel, ores, gold, marble or any other material or mineral by removal of such mineral from the surface or by removal or displacement of the strata or material which overlies such mineral deposits in its natural condition, and shall include but not be limited to the open-pit or open-cut method, the auger method, and the highwall mining method. For the purposes of this permit, mining operations are commercial operations that do not meet the definition of a construction support activity. Additionally, this permit does not cover pre-mining construction and land preparation, including but not limited to, clearing, grubbing, testing, and advanced prospecting in advance of mining activity/operations.

**Minor Land Disturbing Activities** means activities which will result in minor soil erosion such as home gardens or individual home landscaping, repairs, maintenance work, fences, routine maintenance and other related activities.

**National Pollutant Discharge Elimination System "NPDES"** means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring, and enforcing permits for the discharge of pollutants into waters of the State.

**Natural Buffer (Riparian buffer)** means a strip of dense undisturbed perennial native vegetation, either original or re-established, that borders streams and rivers, ponds and lakes, and wetlands. Buffer zones are established for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the upland area and reaching surface waters. Natural buffers help stabilize streambanks and therefore are important in minimizing production of sediment from bank erosion. The importance increases in relation to the size of the stream. Buffer zones are most effective when stormwater runoff is flowing into and through the buffer zone as shallow sheet flow, rather than in concentrated form such as in channels, gullies, or wet weather conveyances.

**Nephelometric Turbidity Unit or NTU** means a numerical unit of measure based upon photometric analytical techniques for measuring the light scattered by fine particles of a substance in suspension.

**New Construction Site** means any initial construction or construction activity covered under this General Permit where the disturbance begins after the effective date of this permit. This includes subsequent phases of a previously permitted development.

**Non-stormwater Discharges** means discharges that do not originate from storm events. They can include, but are not limited to, discharges of process water, air conditioner condensate, non-contact cooling water, vehicle wash water, sanitary wastes, concrete washout water, paint wash water, irrigation water, or pipe testing water.

**Normal Operating Hours** means from 6:00 a.m. to 6:00 p.m., Monday through Friday, excluding federal holidays established pursuant to 5 U.S.C. § 6103. Normal operating hours also include any time when workers are present or when construction activity is occurring, regardless of the particular day or time of day.

**NOI** means Notice of Intent.

**Operator** means any person or other entity that owns, operates, directs, conducts, controls, authorizes, approves, determines, or otherwise has responsibility for, or exerts financial control over the commencement, continuation, or daily operation of activity regulated by this permit. An operator includes any person who treats and discharges stormwater, or in the absence of treatment, the person who generates and/or discharges stormwater, or pollutants. An operator may include but may not be limited to, property owners, agents, general partners, LLP partners, LLC members, leaseholders, developers, builders, contractors, or other responsible or controlling entities.

**Outfall** means the location where stormwater in a discernible, confined and discrete conveyance leaves a facility or construction site prior to discharging into the receiving water.

**Perennial Stream** means a stream or portion of a stream that flows year-round, is considered a permanent stream, and for which base flow is maintained by ground-water discharge to the streambed due to the ground-water elevation adjacent to the stream typically being higher than the elevation of the streambed.

**Permittee** means a person to whom a permit has been issued.

**Plan or Sale as included in the phrase “larger common plan of development or sale”** is broadly defined to mean any announcement or documentation, sales program, permit application, presentation, zoning request, physical demarcation, surveying marks, etc., associated with or indicating construction activities may occur in an area.

**Pollutant of concern** refers to sediment, turbidity, and any other pollutant known or reasonably expected to be found in untreated discharges associated with the construction site.

**Post-construction** refers to any phase of construction where final stabilization has been achieved and all but minor construction activities have been completed. The term post-construction is not affected by the final operational status of the site or whether the site has been placed into operation according to its final intended use.

**Priority construction site** means any site that discharges to a waterbody which is listed on the most recently EPA approved 303(d) list of impaired waters for turbidity, siltation, or sedimentation, any waterbody for which a TMDL has been finalized or approved by EPA for turbidity, siltation, or sedimentation, any waterbody assigned the Outstanding Alabama Water use classification in accordance with ADEM Admin. Code r. 335-6-10-.09, and any waterbody assigned a special designation in accordance with ADEM Admin. Code r. 335-6-10-.10.

**Qualified Credentialed Inspector or QCI** means a permittee, permittee employee, or permittee designated qualified person who has successfully completed initial training and annual refresher Qualified Credentialed Inspection Program (QCIP) training, and holds a valid certification from a Department approved cooperating training entity. A QCI is familiar with current industry standards for erosion and sediment controls and able to inspect and assure that BMPs or other pollution control devices (silt fences, erosion control fabric, rock check devices, etc.) and erosion control efforts (grading, mulching, seeding, growth management, etc.) or management strategies have been properly implemented and regularly maintained. Such individual may not certify the CBMPP or modifications to the CBMPP.

**Qualified Credentialed Inspector Program or QCIP** means a Department approved program conducted by a cooperating training entity. Approved programs provide training in the requirements of the Alabama NPDES rules and regulations to ensure that QCP designed and certified BMPs detailed in a CBMPP are effectively implemented and maintained, and evaluation of conveyance structures, receiving waters and adjacent impacted offsite areas to ensure the protection of water quality and compliance with the requirements of this Permit.

**Qualified Credentialed Professional or QCP** means a licensed (in the State of Alabama) professional engineer (PE) or a Certified Professional in Erosion and Sediment Control (CPESC) as determined by EnviroCert International. Other registered or certified professionals eligible to be classified as a QCP include registered landscape architect, licensed land surveyor, registered geologist, registered forester, Registered Environmental Manager as determined by the National Registry of Environmental Professionals (NREP), or Certified Professional and Soil Scientist (CPSS) as determined by the Soil Science Society of America. The QCP shall be in good standing with the authority granting the registration or designation. The design and implementation of certain structural BMPs may involve the practice of engineering and require the certification of a professional engineer pursuant to Alabama law.

**A qualified person under the direct supervision of a QCP** refers to an individual who is an employee of the QCP or the QCP’s firm, and is familiar with current industry standards for erosion and sediment controls. This individual is able to inspect and assure that BMPs or other pollution control devices (silt fences, erosion control fabric, rock check devices, etc.) and erosion control efforts (grading, mulching, seeding, growth management, etc.) or management strategies have been properly implemented and regularly maintained. Such individual may not certify the CBMPP or modifications to the CBMPP.

**Qualifying precipitation event** refers to any precipitation of 0.75 inches or greater in any 24-hour period.

**Receiving Stream** means the “waters” receiving a “discharge” from a construction site.

**Severe property damage** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

**Silvicultural Operations:**

**Non-point source Silvicultural activities** means activities such as nursery operations, site preparation, reforestations, and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff.

**Point source Silvicultural activities** means any discernable, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in conjunction with silvicultural activities and from which pollutants are discharged into waters of the State. Silvicultural point sources, excluding mining operations regulated pursuant to ADEM Administrative Code rule 335-6-9; 40 CFR Part 122.27 (1994).

**Site** means the land or water area where any facility or activity for which coverage under this permit is required is physically located or conducted, including adjacent land use in connection with the facility or activity. See also the definition of Construction Site.

**State water quality standards** refer to numeric and narrative standards set forth at ADEM Admin Code chaps. 335-6-10 and 335-6-11.

**Steep Slope** means a slope of 15% or greater.

**Stormwater** means runoff, accumulated precipitation, process water, and other wastewater generated directly or indirectly as a result of construction activity, the operation of a construction material management site, including but not limited to, precipitation, upgradient or offsite water that cannot be diverted away from the site, and wash down water associated with normal construction activities. Stormwater does not mean discharges authorized by the Department via other permits or regulations.

**Stormwater control** refers to any BMP or other method used to prevent or reduce the discharge of pollutants to waters of the State.

**Surface water** means a water of the State of Alabama as defined in ADEM Admin. Code R. 335-6-10-.02.

**Temporary Stabilization** means the application and establishment of temporary ground cover (vegetative, pavements of erosion resistant hard or soft materials, or impervious structures) for the purpose of temporarily reducing raindrop impact and sheet erosion in areas where final stabilization cannot be established due to project phasing, seasonal limitations, or other project related restrictions.

**Total Maximum Daily Load or TMDL** means the calculated maximum permissible pollutant loading to a waterbody at which water quality standards can be maintained. The sum of waste load allocations (WLAs) and load allocations (LAs) for any given pollutant.

**Treatment Chemicals** refers to polymers, coagulants, flocculants, or other chemicals used to reduce turbidity in stormwater. For the purposes of this permit, treatment chemicals are used to control erosion on soil or to enhance the sediment removal capabilities of sediment traps or basins. Common construction site polymers include polyacrylamide (PAM) and chitosan.

**Treatment facility and treatment system** means all structures which contain, convey, and as necessary, chemically or physically treat stormwater. This includes all pipes, channels, ponds, tanks, and all other equipment serving such structures.

**TSS** means the pollutant parameter Total Suspended Solids.

**Turbidity** means a condition of water quality characterized by the presence of suspended solids and/or organic material. Sources of turbidity include soil erosion, waste discharge, urban runoff, eroding streambanks, and excessive algal growth.

**Upset** means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation. For purposes of this definition, Chronic and Catastrophic Precipitation constitutes an exceptional incident.

**Waters of the State** means "[a]ll waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the State, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual, partnership, or corporation unless such waters are used in interstate commerce." Code of Alabama 1975, §22-22-1(b)(2). "Waters" include all "navigable waters" as defined in §502(7) of the FWPCA, 33 U.S.C. §1362(7), which are within the State of Alabama.

**Week** means the period beginning at twelve midnight Saturday and ending at twelve midnight the following Saturday.

## ALR100000 2021 PERMIT CHANGES

This general permit renewal contains the same basic framework of requirements as the 2016 permit. However, some language in this 2021 general permit renewal has been revised in order to clarify permit requirements, by streamlining and simplifying language throughout the permit to present the requirements in a generally more clear and readable manner. This structure should enhance operators' understanding of and compliance with the permit's requirements.

Although not inclusive of all changes to the permit, the following list contains notable changes:

### **Eligibility**

Part I.B. Modified to clarify construction support activities covered by this permit.

### **Exempt Discharges:**

Part I.C. Added this section to clarify language as to discharges associated with minor land disturbing activities are exempt from coverage under this permit.

### **Contents of the NOI:**

Part II.C. Modified to remove the requirement to provide latitude and longitude for each point of discharge, added the requirement to provide the latitude and longitude of each outfall, clarify appropriate map submittal information, added requirement to provide a listing of all treatment chemicals anticipated to be used at the site including the Safety Data Sheets (SDS), the dosage(s), and location(s) where the materials are to be used. This information is needed to ensure that the materials are used in appropriate areas on-site and that associated stormwater is treated prior to discharge.

### **Submittal of Document:**

Permit Part II.D. The Department has included the requirement that Notices of Intent (NOIs) for permit coverage shall be submitted electronically to the Department through the Alabama Environmental Permitting and Compliance System (AEPACS).

### **Additional Permittees (Co-Permittee) Under a Single NOI:**

Part II.E. Added the term Co-Permittee to header to clarify this refers to multiple permittees.

### **Erosion Controls and Sediment Controls:**

Part III.A. These requirements have been revised to include factors to consider when designing controls for the construction site to include; complete installation of stormwater controls by the time each phase of construction activities has begun; manage stockpiles or land clearing debris composed of sediment and/or soil; sediment basin, impoundment, or detention/retention basins used as a sediment basin during construction shall be installed and stabilized prior to commencement of other construction activity; and factors to consider regarding treatment chemicals.

### **Soil Stabilization**

Permit Part III.C. This requirement was expanded to clarify the requirement to initiate stabilization immediately.

### **Best Management Practices Plan:**

Part III.E. Added requirement to provide a calculation based on the control measures to be implemented, to confirm the controls, as designed in the CBMPP, will provide the required percent reduction to meet the TMDL.

### **Inspection Requirements:**

Part III.H.4. The evaluation of the CBMPP shall be performed on an interval of every three (3) months for priority construction sites and every six (6) months for non-priority construction sites.

### **Precipitation Measurement:**

Part III.K. Expanded to clarify when precipitation measurements should be read and recorded.

### **Impaired Waters:**

Part III.L. Updated for clarity and readability.

### **Definitions:**

Part V. The following definitions have been added to the draft permit: Agricultural Practices, Construction Support Activity, Facility, Intermittent Stream, Mining Operations, Stormwater Control, Treatment Chemicals, and Turbidity.