Construction General Permit Comments:

In general, the permit should better define where on a project the water quality protections are required and where they are not. Large subdivision developments or long road projects may be near a water body/wetland/storm water conveyance in one area such that release of pollutants is foreseeable but far from such features on the majority of the project site where release of pollutants to Waters of the US is not possible. Erosion and sediment control portions of the law should only apply to those areas of the site where discharge is foreseeable. The remainder of the project should not be burdened with all of the same requirements. Naturally, release of hazardous materials, petroleum products, and that sort of pollution must be prohibited in all areas. The requirements for stabilization timing, for example, offer no value for areas where there is no practical potential for release of pollutants such as sediment in storm water runoff or dust-generated sediment transport to areas that do affect water bodies.

Defining these areas would be a huge benefit in ensuring the control efforts are focused on project areas where they have real value in water-quality protection.

Request for Comment 1: I can’t foresee where one unified SWPPP could be practical unless the overall subdivision developer is required to provide the SWPPP up-front and all of the individual lot developers are required to sign on for their part as they come and go. Considering the developer is still allowed to leave a site un-stabilized and turn it over to a new homeowner who is likely oblivious to the stabilization requirements and financially strapped from purchasing a new home, it seems like a contradiction in goals. Getting 10 individual developers to unite and generate 1 SWPPP that they all agree to would require hypnosis (I know this to be true, I write SWPPPs). Those people can come and go over a period of a few years. Those working in the subdivision later probably had no idea they would be buying land there when the SWPPP was originally developed at the beginning. A simplified SWPPP format such as Alaska offers is a good alternative. If the fee structure were adjusted so those NOIs were $100 each instead of the same $490 paid by a developer who builds a 60-acre subdivision, it would be an acceptably fair system.

Request for Comment 2: I’ve never seen anyone wash-down a building on a construction site. I suspect if they did, it would be for a specific purpose (removal of some substance like soot that has accumulated on the walls) and would include the use of chemical cleaners. In those cases, it would be good to simply require that the equipment used be of some type that retrieves the wash-water as it cleans, much like a carpet-cleaning machine. That way, the wash-down water is not just running on the ground. Clean-water wash-down can still be allowed, if anyone wants to do it provided whatever it’s washing off of the building is not hazardous and it doesn’t result in concentrated flows that result in erosion. It’s really no different than car dealerships that wash-down all the cars in their sales lot with a portable Hotsy Pressure Washer and certainly less harmful than the High School team who have $10 car washes in some local parking lot using sudsy wash water and copious rinse water that all flows directly into the storm drain system to the local creek.

Request for Comment 3: The stabilization requirements need to be more clearly defined with a practical approach that acknowledges how work is really accomplished. Refer also to my opening paragraph. This is how it’s really done: The site is worked. Often there is a local building permit for installation of utility lines, foundations, whatever. Local building officials need to do an inspection of said work. In the case of utility lines, this often includes pressure testing. In the case of foundations this often includes multiple inspections, rebar (with inspection) – then concrete pouring – then some time period for curing – then
application of waterproofing (with inspection) – then application of rigid insulation (with inspection). Only after the last inspection passes can the builder resume site ground-disturbance and backfill around the foundation. Then the site might be temporarily stabilized with say, gravel, while the building is constructed because a lot of damage might be done to a new paved parking lot or lawn from equipment and material staging. When the building shell is in place, the final site stabilization may be practical to do. The building interior work can continue and the site just has to be managed so the equipment, material delivery, and staging is restricted to areas where damage will not result.

On road and street work the process is similar. After the new utilities are in place and have passed the testing required, the roadway is backfilled up to rough grade and temporarily stabilized with surface gravel. After pretty much the entire road or group of streets is done, the pavers come in, do their leveling course, and pave all at one time. This results in a contiguous application of pavement and a safe final driving surface. In some cases, the road is stabilized with gravel for winter shutdown and the paving has to wait until the following spring (weather and temperature limitations on pavement placing).

It is my opinion (15 years of SWPPP experience) that the stabilization requirements in the CGP are unrealistic and impair other factors of the work. On large projects the only way to meet a 7-day limit is to break the project into small ‘phases’. If it works for the type of stabilization to be applied, that’s fine. The majority of the time it does not and results in decreased quality of the final construction. Where driving safety or future on-going maintenance is a factor, it’s worth considering providing some realistic options that won’t really result in detrimental effect on water quality. Sometimes the blanket rule is more harmful than beneficial.

Discharges to a nutrient, sediment, or other impaired water should not be a factor in changing the deadline for stabilization. It should only be a factor in what control BMPs are implemented and what water-monitoring is required. Please keep in mind that the water was impaired before the construction project was envisioned and is probably not the fault of the site operator who must bear the financial burden resulting from it. I live in an area where placer mining is allowed and a few water bodies are impaired because of that activity. The mining is allowed to continue but the construction projects downstream are punished with added restrictions and requirements. It would be more effective to outlaw the mining or require those operators to use methods that don’t result in impairment of the water body.

Section 1.4.2. A 14-day file period for an NOI is reasonable except when there is an on-going project and a new operator must be brought in for some reason. For example, if the first site operator did not perform satisfactorily and had to be fired and replaced, or on a small project, if the site operator couldn’t continue due to accident, illness, bankruptcy or whatever. If the site owner has an NOI, and a SWPPP is in place, the work should be able to continue without delay even if the new site operator has to file their own NOI and the former site operator cannot continue through the 14-day wait period. The site shouldn’t have to sit idle with no stabilization in place for 14 days, which would be worse than making a provision for an Emergency Operator replacement. I’ve seen contractors who should have been fired from a project when they did more harm than good and I’ve seen people go bankrupt on projects so it’s a provision I feel is important.

Section 2.3.1 d. Leaking vehicles and equipment need to be removed from the site for repair. Putting a drip pan under them while they’re parked and then allowing them to dribble all over the site when they’re in operation is not wise. Overfilling of the fluids is usually the cause unless there is a loose connection, cracked gasket, or damaged hose. All of these are readily remedied. As a SWPPP inspector,
if I see the same piece of equipment dripping 2 weeks in a row, I’m likely to tell the site operator to get it off the project. A drip pan is not an effective solution.

Request for Comment 4. Discharge waters should be monitored with a turbidity meter and meet some reasonable limit compared to the background water reading. A simple chart can be maintained in the SWPPP. If other pollutants should be measured, then those factors can be added to the chart and some simple tool can be used to test the water on some reasonable frequency. How it is accomplished is up to the contractor. Some simple ‘home made’ filters using shredded wood, sand, and other on-site materials are very effective. Dewatering is a somewhat special circumstance where the water that’s being discharged is from the same environment as it’s being discharged to and the only difference is what the contractor might contribute (soil fines, fuel from pumping and other working equipment, etc.) So the baseline should be a sample from the un-affected water in the trench (for chemical content) as well as the water body to which it discharges, if there is one (for turbidity and introduced contaminants). One of my contractor clients has begun using the ‘sand-point’ system for dewatering PRIOR to trenching. It works wonderfully, discharges clean water only, and is easily monitored because the hoses are clear. It should be the first method considered on any project. This contractor discharges to a local sanitary sewer system when there’s one available and the system operator defines the discharge requirements for pollutants. When they must discharge to land or water, they comply with the requirements and do set up energy dissipaters but they never have turbid water so they never have to deal with that factor, which is the most difficult. The CGP should at least strongly encourage operators to use this system where feasible.

Request for comment 5. I’ve been writing SWPPPs and inspecting for about 15 years. It’s my opinion that inspections every 7 calendar days and within 24 hours of the day a 2-year/24-hour storm even occurs is sufficient. You should set some distance limit for the using the weather station readings. If BMPs are failing and pollutants are discharging after a storm event of ¼ inch in 24 hours, then the BMPs are inadequate and need to be replaced entirely or are not in the correct locations at the time. Doing more inspections is really the band-aid you apply after you let the 3-year old play with the butcher knife. The emphasis should be on effective BMPs and proper planning. More inspections and paperwork is a mis-direction of focus, effort, and resources. I know you’re looking for accurate reporting but people who can’t install silt fence correctly are unlikely to fill out an inspection report correctly or accurately.

On any construction site there is a flurry of activity at the start of the project. New areas are disturbed and BMPs are installed. An inspection every 7 days is useful. Then things settle down and the project is pretty boring for the rest of the summer. An inspection every 14 days and the day following a 2-year/24-hour storm event is adequate. In Alaska the requirement is once every 7 days in areas with a mean annual precipitation of 40 inches or more and 14 days for areas with less annual precipitation. Even that can be improved upon by looking only at the construction season precipitation and eliminating the winter shutdown snow-fall months but I feel it’s better guidance than a blanket 7-day schedule.

Snow melt runoff is a complicated topic. I’ve seen some obvious problems this spring and we had very little snow last year. The most obvious problems are areas where the contractor applied topsoil late in the year and hydro-seeded/mulched with BFM and winter seed. My opinion is that if you don’t have time to get the grass to at least 50% density before winter freeze, the topsoil should not be applied. Areas where the contractor realized this and left the disturbed areas temporarily stabilized with gravel are not discharging any pollutants. Mainly because the disturbed area is dug out somewhat below
adjacent un-disturbed grade and therefore contained by the edge of disturbance, the curb (where it is on a street or road) or some perimeter control at the base of the slope, generally wattle.

Where topsoil was applied, even with hydo-mulch/BFM it’s a muddy mucky mess. Where silt fence is installed as a perimeter control, it retains the melt water runoff and, well, if water is your problem, why would you want to accumulate a huge amount? It keeps the soil saturated and mucky and eventually either runs over, under, or around the silt fence because the contractor didn’t anticipate the formation of a small lake when they decided where to start and end it or how high it needed to be. It just can’t stand up to the water pressure. As long as the ground is frozen, the water stands on top of it and the pond grows. Other than being aware of the situation, I’m not sure what purpose and inspection would serve. They can’t install more silt fence in frozen ground and trying to work in the area would cause more harm than good. The only thing they could do is dewater. In one area a silt curtain was added and while it looks promising, I don’t think it’s actually improving water-quality.

The inspection frequency for snow melt runoff should be the same as any other time the site is active: every 7 calendar days and within 24 hours of the day a 2-year/24-hour storm even occurs is sufficient. Some guidance for ambient temperatures for some number of consecutive days might be good. We still have some remote sites that are not accessible during the winter and even if the inspector could get there, he/she would have no ability to remedy a discharge situation. Those sites still need to be exempt until some reasonable day in spring. Alaska allows 21 days prior to ‘official’ spring melting according to climate data. I feel the inspections should begin 60 days prior to unless the site is inaccessible.

However, the best way to protect water quality is to put more emphasis on appropriate winter shutdown planning and BMPs. Erodible soils that are not stabilized and silt fence that retains water are a spring nightmare. Applying temporary stabilization over less erodible, natural soils and using a perimeter control that allows the release of the melt water in a continual and gradual manner is much better. Well-placed sediment traps at strategic locations are highly effective. Planning snow storage areas or snow removal practices for the site over winter are also key for some sites.

In general inspections should only be required in locations where there is real potential for discharge (refer to my opening paragraph). These areas should be defined in Section 4.5.

7.21 All Site Operators, When you say ‘construction activities’ do you mean civil/earth disturbing/ SWPPP Implementation and earth stabilizing operators or also the Home Depot Crew who will install the kitchen cabinets? On building construction projects, it’s hard to know who to include and not.

7.2.3 In a world of computers and numeric decimals, can we change from ¼ acre to 1/10th please?

7.2.4 c. Please remove the word ‘down-stream’. A very small number of projects actually take place on a river system. I make my map to show waters and wetlands within 1 mile of the project in all directions.

Request for Comment 7: I don’t see where this will serve any purpose except to waste resources that are easily put to better use. The SWPPP is modified over time to respond to changing field conditions and posting just the initial SWPPP quickly becomes a source of misinformation. Any real stakeholder can contact the operator at any time if they have concerns and in that forum, a true and beneficial exchange of pertinent and timely information can occur. It’s really a local concern and should be kept as such.

Thank you very much for your time and consideration. Elaine