

## **SUMMARY of PROPOSED MAJOR CHANGES to N.C. CONSTRUCTION GENERAL PERMIT**

The existing North Carolina Construction General Permit (NCG01) expires on August 2, 2011. The staff of the Division of Water Quality (DWQ) has been working for the past nine months with the staff of the Division of Land Resources and a Technical Advisory Group (CTAG) to consider technical issues to help frame changes that should be made to the permit. The CTAG was comprised of 14 members who represented a broad range of environmental, regulatory, government and development interests. Each meeting was open to the public. After 14 meetings with the Group, and discussions of many options, the staff of the DWQ prepared a "Pre-publication" version of the Draft Permit. This document was sent to the EPA (and the public) on April 12, 2011 for review. After receiving comments, a Draft Construction General Permit was prepared and made available for review on May 13<sup>th</sup>.

The EPA published in the Federal Register in December of 2009 the Effluent Limitations Guidelines (ELGs) that specified many requirements that must be included in any state Construction General Permit issued after February of 2010. Those included specifications that all discharges from the larger development sites must be monitored and measured for turbidity levels and meet a discharge limit of 280 NTUs. (This mandate is not in effect at this time due to a legal challenge that has delayed implementation of this number. However, EPA is continuing to work to finalize a number.) One of the most significant changes is that "stabilization of disturbed areas must, at a minimum, be initiated immediately" when construction activity has stopped, "and will not resume for a period exceeding 14 calendar days." These and many other issues were a part of the Technical Advisory Group discussions and are reflected in the Draft Permit.

**Listed below are highlights of changes proposed that, if incorporated in the Final Permit, will be different from conditions in the existing permit.**

- 1. The permit contains conditions requiring ground cover within 14 days on disturbed flat areas and 7 days on "all perimeter dikes, swales, ditches, perimeter slopes and all slopes steeper than 3 horizontal to 1 vertical."** - From the numerous discussions during the meetings of the Technical Advisory Group, it appeared that the Group did appreciate the need to apply ground cover quickly to reduce the chances of sediment entering our state's waters. Several members of the group, including representatives from the development business, voiced support for the recommended Draft Permit language which contains the quicker ground stabilization requirements. Many states, like Florida, Maryland, and Tennessee require ground cover on slopes in seven days or less. Research data has shown that timely-applied ground cover can reduce sediment losses by over 90%\* and in almost all cases is the most effective method of

controlling sediment discharges to streams. (\*Published information from Washington state and NCSU.)

2. **Quicker ground cover applications for special waters.** - The proposal includes requirements that all waters designated by the Environmental Management Commission as Outstanding Resource Waters (ORW), Trout Waters, and High Quality Waters would have to apply ground cover within seven days of cessation of disturbance. The requirement would apply to the entire area classified as Outstanding Resource Waters and for "one mile and draining to" portions of Trout and High Quality Waters. The High Quality Waters classification includes: 1) all areas designated as Primary Nursery Areas (PNAs) by the Marine Fisheries Commission, 2) all waters classified as Water Supply I & Water Supply II and 3) all Class SA waters.

The proposed permit changes were designed to apply more stringent controls in areas of high slopes and areas with sensitive water quality conditions. Considering this requirement, along with other ground cover provisions in the Draft, it appears that some coverage flexibility can be built into this provision. For example, protection of Trout waters should be greatly enhanced by the proposed slope-targeted language already in the proposed permit. The staff will be seeking additional comments on ground-cover applications to special waters.

3. **Surface dewatering from basins** - Although most sediment basins in NC are designed with methods of withdrawing water from the surface, such as a skimmer, the federal requirements now specify this for all basins in all states. The permit as proposed would specify this requirement but allow another option for the smaller basins treating less than one acre of drainage area.
4. **Location of certain materials on site** -The proposed permit requires that areas for debris, construction waste, earthen stock piles and other wastes be located "at least 50 feet away from storm drain inlets and surface waters unless it can be shown that no other alternatives are reasonably available."
5. **Concrete waste handling** - EPA specified the inclusion of better on-site controls for concrete washout handling. Some specifications included in the draft are: **1)** Liquid and solid wastes from washout operations must be contained in a leak-proof container. **2)** Washouts must be 50 feet from storm drains or waterbodies unless "impractical." **3)** Cement truck washouts are allowed only in designated areas and labeled with a sign and **4)** On-site pits are only allowed if designed to handle the waste volume and approved by the permitting agency. It should be noted that the permit does not authorize the discharge of any washout water to waters of the state.

- 6. The permit contains no recommendation for effluent limits or effluent monitoring.** In working with the CTAG, the discussion on proposed effluent limits received the most deliberation of all of the issues. However, without an EPA turbidity number and without the establishment of permittee field monitoring and turbidity measuring protocols for construction site discharges, it was decided not to include these in the draft proposal. As stated above, EPA is working to finalize their turbidity effluent number and subsequent renewal of this permit will address this numeric standard.
- 7. Self-inspections** - Self inspections continue to be a part of the permit but will only be required during defined "normal business hours." Records of the previous 30 days inspections shall be made readily available on site during working hours.
- 8. Definitions** - Several definitions were added to explain terms like: Ground Cover, Permanent Cease, Permanent Stabilization, Soil Stabilization, Stormwater Pollution Prevention Plan, Temporary Cease, and Temporary Stabilization.
- 9. Existing permits** – Projects permitted under the previous version of the NCG01 will continue to be valid.