

**General Permit  
Rhode Island Pollutant Discharge Elimination System  
Storm Water Discharge Associated  
with Construction Activity**

**September 2003**



**Valid ONLY in accordance with Part I.C.**

Expiration Date: September 9, 2008

**Rhode Island Department of Environmental Management  
Office of Water Resources  
Permitting Section  
RIPDES Program**

**GENERAL PERMIT  
RHODE ISLAND POLLUTANT DISCHARGE ELIMINATION SYSTEM  
STORM WATER DISCHARGE ASSOCIATED WITH CONSTRUCTION ACTIVITY**

**PLEASE READ THIS PERMIT CAREFULLY!**

Construction activities which disturb one (1) or more acres of land and where storm water runoff is directed, via a point source (see RIPDES Rule 3 for the definition of point source), into a separate storm sewer system or into the waters of the State, are required to seek coverage under a RIPDES storm water permit. The RIPDES Program of the Office of Water Resources realizes that effective regulatory mechanisms to control erosion and sedimentation are currently required by the RIDEM, Freshwater Wetlands and Water Quality Certification Programs; the Coastal Resources Management Council (CRMC); and in those towns/cities which have a Qualifying Local Program that has been formally approved by the Department (see RIPDES Rule 15.01(i) for the definition of Qualifying State, or Local Programs). In order to reduce duplication of effort, construction activities that require a CRMC permit, RIDEM Water Quality Certification approval and/or QLP approval will be automatically granted authorization from RIPDES upon departmental receipt of the CRMC permit or the QLP approval and the RIDEM Water Quality Certification (if applicable) and a complete and certified NOI for activities that disturb five (5) or greater acres. For activities that disturb equal to or greater than one (1) acre and less than five (5) acres, approval will be automatically granted authorization from RIPDES upon applicant receipt of the CRMC permit or the QLP approval and the RIDEM Water Quality Certification (if applicable). For all construction activities equal to or greater than one (1) acre and require a RIDEM Freshwater Wetlands permit, authorization from RIPDES will be automatically granted upon applicants receipt of the Freshwater Wetlands permit. For all other construction activities that disturb five (5) or greater acres, authorization will only be granted upon notification from the Director after RIPDES review of the NOI and Storm Water Pollution Prevention Plan. For all other construction activities that disturb equal to or greater than one (1) acre and less than five (5) acres, authorization will be granted automatically upon departmental receipt of a complete and certified NOI if the project does not propose a storm water or allowable storm water discharge to or discharge related activities within a Natural Heritage Area that may affect, a listed or proposed to be listed endangered or threatened species or its critical habitat. If the project does propose a storm water or non-storm water discharge to or discharge related activities within a Natural Heritage Area, authorization will be automatically granted within thirty (30) days after departmental receipt of NOI unless notified to the contrary by the Director, or automatically granted with a prior approval from the DEM Natural Heritage Program finding no adverse impact. Regardless of the means of obtaining approval, the permittee is still responsible for complying with all terms and conditions of this permit and any other applicable State, local and/or federal regulations. The Department will be held harmless for any failure of the permittee to comply with this permit.

I. GENERAL COVERAGE UNDER THIS PERMIT

A. Permit Area. This permit applies to all areas of the State of Rhode Island.

B. Eligibility

1. Except storm water discharges identified in Part I.B.3., this permit may cover all new and existing storm water discharges associated with construction activity, including, but not limited to, clearing, grading, excavation, and filling, where total land disturbance is equal to or greater than one (1) acres including construction activities involving soil disturbances of less than one (1) acre of disturbance if that construction activity is part of a larger common plan of development or sale that would disturb one (1) or more acre, and the discharge is composed entirely of storm water. A discharge shall be considered composed entirely of storm water if there is adequate access to sample the storm water discharge covered under this permit prior to mixing with a discharge which is authorized and in compliance with an existing RIPDES permit or the discharge is listed in Part I.B.2. below. If a construction site is within the jurisdiction of a Qualifying Local Program (QLP), and

the operator of the construction activity is not required to obtain a RIDEM Freshwater Wetlands Permit, Coastal Resources Management Council (CRMC) permit, or a RIDEM Water Quality Certification, the operator must apply for QLP approval unless the operator is a Federal or State agency that has obtained RIPDES permit authorization from the Department. For sites requiring QLP approval, all conditions of this permit apply, with the exception of Parts V.L. and V.T. This permit does not pre-empt or supersede or expand the authority of local agencies to prohibit, restrict, or control discharges of storm water to storm drains or other water courses within their jurisdiction.

2. Allowable non-storm water discharges. Other discharges not comprised of storm water are allowed under this permit but are limited to the following: discharges which result from the washdown of vehicles where no detergents are used; external building washdown where no detergents are used; the use of water to control dust; fire fighting activities; fire hydrant flushings; natural springs; uncontaminated groundwater; lawn watering; potable water sources including waterline flushings; irrigation drainage; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled materials have been removed) and where detergents are not used; and foundation or footing drains where flows are not contaminated with process materials such as solvents, or contaminated by contact with soils where spills or leaks of toxic or hazardous materials has occurred. If any of these discharges may reasonably be expected to be present and to be mixed with storm water discharges, they must be specifically identified in the site's Storm Water Pollution Prevention Plan as described in Part IV. of this permit.
  3. Limitations of Coverage. The following storm water discharges associated with construction activity are not authorized by this permit.
    - a. Storm water discharges associated with construction activity that the Director of the Department of Environmental Management has found to be or may reasonably be expected to be contributing to a violation of water quality standards, or to be a significant contributor of pollutants; and
    - b. Storm water discharges associated with construction activity, allowable non-storm water discharges and discharge related activities that adversely effect a listed, or a proposed to be listed, endangered or threatened species or its critical habitat.
- C. Authorization. To be covered under this general permit, owners or operators of storm water discharges associated with construction activities that disturb one (1) or more acres or less than one (1) acre if that construction activity is part of a larger common plan of development or sale that would disturb one (1) or more acre, must comply with the applicable sections below.
1. *Deadlines for Requesting Authorization*
    - a. For storm water discharges associated with construction activity of five (5) acres or more, which was authorized under the 1998 General Permit and is expected to continue beyond the effective date of this permit, an NOI must be submitted within thirty (30) days of the effective date of this permit to maintain permit coverage in accordance with Part I.C.2 of this permit.

- b. For storm water discharges associated with construction activities which commence after the effective date of this permit, and are required to submit an NOI in accordance with Part I.C.2 of this permit, an NOI must be submitted at least thirty (30) days prior to the commencement of the land disturbing activities.

2. *Granting of Authorization.*

- a. For all construction activities that are required to obtain a CRMC permit, or QLP approval, and a RIDEM Water Quality Certification (if applicable):
  - i. Construction activities that disturb an area equal to or greater than five (5) acres, authorization to discharge under this permit will be automatically granted upon departmental receipt of the CRMC permit or QLP approval, RIDEM Water Quality Certification (if applicable), and a complete and certified NOI (in accordance with Part III.A.9), unless notified to the contrary by the Director. The issuance of the CRMC permit or the QLP approval and RIDEM Water Quality Certification (if applicable) will serve as authorization of RIPDES approval.
  - ii. Construction activities that disturb an area equal to or greater than one (1) acre and less than five (5) acres, authorization to discharge under this permit will be automatically granted upon applicant receipt of the CRMC permit or QLP approval and RIDEM Water Quality Certification (if applicable). The issuance of the CRMC permit or the QLP approval and RIDEM Water Quality Certification (if applicable) will serve as authorization of RIPDES approval.

Note: All construction activities regulated by RIPDES which are also under CRMC review are required to file an application for a Water Quality Certification.

- b. For all construction activities that disturb an area equal to or greater than one (1) acre and are required to obtain a RIDEM Freshwater Wetlands permit, authorization to discharge under this permit will be automatically granted upon applicants receipt of the Freshwater Wetlands permit. The issuance of RIDEM Freshwater Wetlands permit will serve as authorization of RIPDES approval.
- c. For all other construction activities that disturb an area equal to or greater than five (5) acres, authorization to discharge will only be granted upon notification from the Director after review of the NOI and Storm Water Pollution Prevention Plan.
- d. For all other construction activities that disturb an area equal to or greater than one (1) acre and less than five (5) acres, authorization to discharge will be granted as follows, unless notified to the contrary by the Director:
  - (i) If the construction activity is located completely outside of and does not discharge directly to a Natural Heritage Area found on

RIDEM's web site under Maps, Community Planning Maps, authorization will be granted automatically upon receipt of a complete certified NOI (in accordance with Part III.A.9 & 10).

- (ii) If the construction activity is located within or discharges directly to a Natural Heritage Area found on RIDEM's web site under Maps, Community Planning Maps, authorization will be automatically granted upon departmental receipt of a complete certified NOI (in accordance with Part III.A.9) and an approval from the DEM Natural Heritage Program finding no adverse impact, or
- (iii) If the construction activity is within or discharges directly to a Natural Heritage Area found on RIDEM's web site under Maps, Community Planning Maps, authorization will be automatically granted within thirty (30) days after departmental receipt of a complete certified NOI (in accordance with Part III.A.9).

D. Termination of Coverage. Owners and/or operators of storm water discharges associated with construction activity must notify the Director in writing upon completion of land disturbing activities. At that point, coverage under this permit is terminated. At a minimum, the following information is required to terminate coverage under this permit:

1. The owner's name, mailing address, and telephone number,
2. The operator's name, mailing address, and telephone number,
3. The name and location of the facility,
4. The RIPDES Storm Water permit number, and
5. Certification that the storm water discharge associated with construction activity no longer takes place at the site.

E. Failure to Notify. Owners or operators who fail to notify the Director of their intent to be covered under a general permit, and discharge pollutants to the waters of the State or to a separate storm sewer system without a RIPDES permit, are in violation of Chapter 46-12 of Rhode Island General Laws and the Clean Water Act (CWA).

## II. PERMIT CONDITIONS

- A. Development of a Storm Water Pollution Prevention Plan (SWPPP), as described in Part IV of this permit, is required prior to submitting an NOI. The SWPPP developed under the previous (1998) general permit may satisfy this requirement, provided it adequately addresses all requirements of this permit. Compliance with the SWPPP is required upon the date of authorization to discharge under this permit. A copy of the SWPPP must be kept on site at all times during the extent of coverage under this permit.
- B. All storm water control measures, disturbed areas, areas used for the storage of materials that are exposed to precipitation (including unstabilized soil stockpiles), discharge locations, and locations where vehicles enter or exit the site, as outlined in Part IV of this permit, must be inspected by or under the supervision of the permittee at least once every seven (7) calendar days and within twenty-four (24) hours after any storm event which generates at least 0.25 inches of rainfall per twenty four (24) hour period and/or after a significant amount of runoff. Such areas shall be inspected for evidence of, or the potential for, pollutants entering the waters of the State or a separate storm sewer system. All BMPs shall be maintained to prevent uncontrolled releases of measurable amounts of

sediment or sediment laden water from traveling beyond the limits of disturbance. If an inspection reveals a discharge of sediments to the waters of the State or a separate storm sewer system, the permittee must notify this office of the nature of the discharge, the measures taken to clean up the discharge, and the measures taken to prevent future releases.

- C. Based on the results of the inspections (as required in paragraph B. above), the site description identified in the SWPPP in accordance with Part IV.E.1. of this permit and pollution prevention measures identified in the SWPPP in accordance with Part IV.E.2. of this permit must be revised as appropriate, but in no case later than seven (7) calendar days following the inspection. Such modifications must provide for implementation of any changes to the SWPPP within seven (7) calendar days following the inspection.
- D. A report summarizing the scope of the inspection, name(s), and titles of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with paragraph B. and C. above must be made and retained as part of the SWPPP for at least five (5) years from the date that the site has undergone final stabilization. Such reports must identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report must contain a certification that the site is in compliance with the SWPPP and this permit. The report must be signed in accordance with Part V.G. of this permit.
- E. Failure to make inspections under this part constitutes a violation of this permit and enforcement actions under 46-12 of R.I. General Laws may result.

### III. NOTICE OF INTENT REQUIREMENTS

#### A. Contents of the Notice of Intent:

- 1. The owner's name, mailing address, telephone number, ownership status, and status as a Federal, State, private, public, or other entity.
- 2. The operator's name, mailing address, telephone number, ownership status, and status as a Federal, State, private, public or other entity.
- 3. The location of the construction site, including the street, nearest utility pole number, and Assessors plat and lot.
- 4. The projected or actual construction commencement date and the projected construction completion date.
- 5. The total area of the site, the total area of impervious surface for both the pre-construction and post-construction conditions, and the runoff coefficient for both the pre-construction and post construction site conditions.
- 6. The name of the receiving water(s), or if the discharge is through a separate storm sewer system, the name of the operator of the separate storm sewer system and the ultimate receiving water(s).
- 7. The type of construction at the site (i.e. the ultimate intended use of the project), the types of any materials handled and/or stored at the site, and the types of any

storm water management controls proposed to be used at the site.

8. Applicants with construction activity disturbing greater than five (5) acres who are not required to obtain a permit addressing erosion and sediment controls from CRMC, a QLP, RIDEM Freshwater Wetlands Program or a RIDEM Water Quality Certification, are required to submit a copy of the SWPPP as part of the NOI for review. Applicants previously authorized to discharge under the 1998 general permit are only required to submit the SWPPP to obtain authorization in accordance with Part IV.D of this permit.
9. For all construction activities that disturb an area equal to or greater than five (5) acres and are required to obtain a CRMC permit and/or QLP approval, or disturb an area equal to or greater than one (1) acres and less than five (5) acres and do not require a permit or approval from the CRMC, the RIDEM Freshwater Wetlands Program, or a QLP, submission of a complete NOI is required and must contain a signed certification by a Registered Professional Engineer, a Certified Professional in Erosion and Sediment Control (CPESC), a Certified Professional in Storm Water Quality (CPSWQ), or a Registered Landscape Architect, that the SWPPP has been developed in accordance to the requirements of this permit as well as all applicable guidelines of the Soil Erosion and Sediment Control Handbook and the Storm Water Design and Installation Standards Manual (see Part IV.A. for references). If the SWPPP requires the practice of engineering, the NOI must be signed by a Registered Professional Engineer.
10. For all construction projects that are required to submit an NOI to the Department in accordance with Part I.C.2.c & d of this permit, the NOI must contain a signed certification by a Registered Professional Engineer, a Certified Professional in Erosion and Sediment Control (CPESC), a Certified Professional in Storm Water Quality (CPSWQ), or a Registered Landscape Architect certifying that the construction activity is located completely outside of and does not discharge directly to a Natural Heritage Area found on RIDEM's web site under Maps, Environmental Resource Map. For projects that propose a storm water or allowable non-storm water discharge to a Natural Heritage Area, or has discharge related activities that potentially affect, a listed or proposed to be listed endangered or threatened species or its critical habitat, must submit a map showing the location of the construction site, including the street, nearest utility pole number, and Assessors plat and lot, total area of the site, and the limits of disturbance.
11. After review of the NOI, additional information may be required by this office to determine whether or not to authorize the discharge under this permit.
12. Where a new operator is selected after the submittal of an NOI, a new NOI must be submitted by the new operator in accordance with the requirements of this part.

B. Where to Submit. A completed and signed NOI must be submitted to:

R.I. Department of Environmental Management  
Office of Water Resources  
RIPDES Program  
Permitting Section  
235 Promenade Street  
Providence, RI 02908

- C. Additional Notification. Construction sites discharging storm water which are operating under an approved local Soil Erosion and Sediment Control Ordinance must, in addition to the requirements in paragraph B. above, submit a copy of the NOI to the Town or City Department which approves such plans.
- D. Deficient NOI. If any portion of the NOI does not meet one or more of the minimum requirements of this part, then the applicant will be notified as such by a deficiency letter at any point during the review period. It is the responsibility of the applicant to make all required changes in the plan and resubmit the application. The review period will recommence upon the departmental receipt of the revised application.

#### IV. **STORM WATER POLLUTION PREVENTION PLAN REQUIREMENTS**

- A. A Storm Water Pollution Prevention Plan (SWPPP) shall be developed for each construction site covered by this permit. The SWPPP shall be designed to address two components of storm water pollution: (1) pollution caused by soil erosion and sedimentation during and after construction; and (2) storm water pollution caused by use of the site after construction is completed, including, but not limited to, parking lots, roadways, impervious surfaces, and the maintenance of grassed areas. The SWPPP shall be stamped and signed by a Registered Professional Engineer, a Certified Professional in Erosion and Sediment Control (CPESC), a Certified Professional in Storm Water Quality (CPSWQ), or a Registered Landscape Architect certifying that the SWPPP meets all requirements of this permit, and be developed as part of the NOI application process. However, SWPPPs which require the practice of engineering must be stamped and signed by a Registered Professional Engineer. The SWPPP shall identify potential sources of pollutants which may reasonably be expected to affect the quality of storm water discharges associated with the construction activity. The SWPPP shall identify potential sources of pollutants associated with post construction activity and comply with all local or QLP post construction requirements. In addition, the SWPPP shall describe and ensure the implementation of Best Management Practices (BMPs) which are to be used to reduce or eliminate the pollutants in the storm water discharge(s) at the site and assure compliance with the terms and conditions of this permit. BMP selection shall include an evaluation of the effectiveness of available practices and be made with proper references. Available guidance documents include, but are not limited to, the following:
  - 1. RIDEM, USDA Soil Conservation Service, and Rhode Island State Conservation Committee. **Soil Erosion and Sediment Control Handbook.** 1989.
  - 2. RIDEM. **Storm Water Design and Installation Standards Manual.** (as amended)
  - 3. RIDEM - Office of Environmental Coordination. **Artificial Wetland for Storm Water Treatment: Processes and Design.** 1989.
  - 4. EPA - Office of Water. **Storm Water Management for Construction Activities.** September, 1992.
- B. If the SWPPP is not required to be submitted along with the NOI (see Part III.A.8. of this permit), then the owner, operator, or other designated person under the supervision of the owner or operator shall make it available to the Department upon request.



- C. If the SWPPP is requested and reviewed by the Director, he or she may notify the permittee at any time that it does not meet one or more of the minimum requirements of this part. After such notification from the Director, the permittee shall amend the SWPPP and shall submit to the Director, within seven (7) days of the notification, a written certification that the required changes have been made.
- D. The permittee shall amend the SWPPP whenever there is a change in design, construction, operation, maintenance or other procedure which has a significant effect on the potential for the discharge of pollutants, or if the SWPPP proves to be ineffective in achieving its objectives. In addition, the SWPPP shall be amended to identify any new operator that will implement a component of the SWPPP. All amendments made to the SWPPP must be submitted to the applicable agency which conducted the initial review. Amendments to the SWPPP that will be reviewed by the Department will be reviewed in the same manner as described in paragraph C. above.
- E. The SWPPP shall, at a minimum, include the following:
1. Site Description
    - a. A site plan (map) which includes the following:
      - i. total area of development;
      - ii. total area of soil disturbance;
      - iii. pre- and post-development drainage patterns;
      - iv. approximate slopes anticipated after the completion of major grading activities;
      - v. the location of all erosion and sedimentation storm water control structures, including the location of any temporary or permanent retention or detention basins or other water quality control structures;
      - vi. the location of all impervious structures; and
      - vii. the location and name of the receiving waters or separate storm sewer system and the ultimate receiving waters.
    - b. A narrative describing the nature and estimated timetable for the construction activities, including a sequence of major activities of the project, and the ultimate intended use of the project (e.g. shopping mall, residential subdivision, etc.).
    - c. Estimates of the total area of the site and the total area of the site that is expected to undergo soil disturbance.
    - d. The calculated pre-construction and post-construction runoff coefficients for the site.
    - e. A description of the soils at the site and of each soils' erodibility hazard as listed in the Soil Survey of Rhode Island.
    - f. A description of potential sources of pollution that may reasonably be expected to effect the quality of storm water discharges from the site, such as exposed, unstabilized soil stockpiles.

- g. A list of sources of allowable non-storm water discharges, as described in Part I.B.2. of this permit (except flows from fire fighting activities)
  - h. Existing data on the quality of any known discharges from the site, if available.
2. Controls. The SWPPP shall include a description of controls, including construction details appropriate for the site, and implement such controls. The description of controls shall address the following minimum components:
- a. *Erosion and Sedimentation Controls (E&S)*
    - i. Vegetative Practices. A description of the vegetative BMPs designed to preserve existing vegetation where attainable and revegetate open areas as soon as practicable after grading or construction. Such practices may include: temporary and permanent seeding, mulching, sod stabilization, vegetative buffer strips and tree protection. The operator should initiate appropriate vegetative practices on all disturbed areas as soon as possible but not more than fourteen (14) days after the construction activity in that area has temporarily or permanently ceased, unless the activity is to resume within twenty one (21) days.
    - ii. Structural Practices. A description of structural BMPs to divert flows from exposed soils, filter runoff, store flows, or otherwise limit runoff from coming into contact with exposed, unvegetated areas of the site and to prevent sediments and/or other pollutants from leaving the site. Such practices may include: staked hay bales, silt fence, earthen dikes, drainage swales, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rip-rap outlet protection, sediment traps and sediment basins.
  - b. *Post Construction Storm Water Management.* A description of measures that will be installed during the construction project to control pollutants in storm water discharges that will occur at the site after the construction operations have been completed. Such measures may include: infiltration of runoff on-site, flow attenuation by use of open vegetated swales and natural depressions, vegetated buffer strips, and the use of detention/retention structures. Where controls are needed to prevent or minimize erosion, velocity dissipation devices shall be placed at all outfall locations and along the length of any outfall channel as necessary to provide a non-erosive velocity flow from the structure to the receiving waters. Justification shall be provided by the permittee for each practice selected based on site conditions. In addition, the SWPPP shall include a description of maintenance activities in accordance with paragraph d. below.
  - c. *Other Controls.*
    - i. Off-site Vehicle Tracking of Sediments. Each site shall have graveled access entrance and exit drives and parking areas to reduce the tracking of sediment onto public or private roads.

- ii. Waste Disposal. All types of waste generated at the site shall be disposed of in a manner consistent with State Law and/or regulations.
  - iii. Spill Prevention and Response Procedure. Areas where potential spills can occur, and their accompanying drainage points, shall be identified clearly in the SWPPP. The potential for spills to enter the storm water drainage system shall be eliminated wherever feasible. Where appropriate, specific material handling procedures, storage requirements, and procedures for cleaning up spills shall be identified in the SWPPP and made available to the appropriate personnel. The necessary equipment to implement a clean up must also be made available to personnel.
  - iv. Control of Allowable Non-Storm Water Discharges. If allowable non-storm water discharges are occurring at the site, then such discharges shall be visually observed and recorded in accordance with Part II of this permit.
  - v. Good Housekeeping. Each site shall provide for the minimization of exposure of construction debris (including, but not limited to, insulation, wiring, paints and paint cans, solvents, wall board, etc.) to precipitation. The SWPPP shall ensure that such construction waste is properly disposed of, to avoid exposure to precipitation, at the end of each working day.
- d. *Maintenance.* A description of procedures to maintain, in good and effective operating condition, vegetation, storm water control measures, and other protective measures, identified in the site plan, must be included as part of the SWPPP. Procedures in the SWPPP shall provide that all erosion controls on the site are inspected at least once every seven (7) calendar days and within twenty four (24) hours after an event which generates 0.25 inches of rain in a twenty four (24) hour period.
- e. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.

## V. **GENERAL REQUIREMENTS**

- A. Duty to Comply. The permittee must comply with all conditions of this permit and any other applicable State, local and/or federal regulations. Any permit noncompliance constitutes a violation of Chapter 46-12 of the Rhode Island General Laws and the CWA and is grounds for enforcement action which may include, permit termination, revocation and reissuance, modification, or for the denial of a permit renewal application and the imposition of penalties.
- 1. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate this requirement.

2. Section 309 of the CWA provides significant penalties for any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA or any permit condition or limitation implementing any such sections in a permit issued under Section 402 of the CWA. Any person who violates any condition of this permit is subject to a civil penalty of up to \$25,000 per day of such violation, as well as any other appropriate sanctions provided by Section 309 of the CWA. Section 309(c)(4) of the CWA provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of up to \$10,000 or by imprisonment of not more than two (2) years, or by both.
  3. Chapter 46-12 of the R.I. General Laws provides that any person who violates a permit condition is subject to a civil penalty of not more than \$25,000 per day of such violation. Any person who willfully or negligently violates a permit condition is subject to a criminal penalty of not more than \$25,000 per day of such violation and imprisonment for not more than five (5) years, or both. Any person who knowingly makes any false statement in connection with the permit is subject to a criminal penalty of not more than \$5,000 for each instance of violation or by imprisonment for not more than thirty (30) days, or both.
- B. Continuation of the Expired General Permit. Provided the permittee has reapplied in accordance with paragraph C. below, an expired general permit continues in force and effect until a new general permit is issued. Only those construction sites previously authorized to discharge under the expired permit are covered by the continued permit.
  - C. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain coverage under a new permit. The permittee shall submit a complete Notice of Intent at least one hundred eighty (180) days before the expiration date of the existing permit, unless permission for a later date has been granted by the Director.
  - D. 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 the permitted activity in order to maintain compliance with the conditions of this permit.
  - E. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.
  - F. Duty to Provide Information. The permittee shall furnish to the Department, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall furnish to the Director any documents that are required to be kept as part of this permit.
  - G. Signatory Requirements. All Notices of Intent, Storm Water Pollution Prevention Plans, reports, certifications, or other information submitted to the Director, or that this permit requires be maintained by the permittee shall be signed and certified in accordance with Rule 12 of the RIPDES regulations. R.I. General Laws, Chapter 46-12 provides that any

person who knowingly makes any false statements, 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 by a fine of not more than \$5,000 per violation, or by imprisonment for not more than thirty (30) days per violation, or by both.

- H. 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 under Section 311 of the CWA.
- I. Release in Excess of Reportable Quantities. If a release in excess of a reportable quantity occurs, this office must be notified immediately. This permit does not relieve the permittee of the reporting requirements of 40 CFR 117 and 40 CFR 302. The discharge of hazardous substances in the storm water discharge(s) from a facility shall be minimized in accordance with the applicable storm water pollution prevention plan for the facility, and in no case, during any twenty four (24) hour period, shall the discharge(s) contain a hazardous substance equal to or in excess of reportable quantities.
- J. Property Rights. The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.
- K. 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.
- L. Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require the operator to apply for and obtain an individual RIPDES permit as stated in Part V.T. of this permit.
- M. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law.
- N. Proper Operations and Maintenance. The permit 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 requirements of the storm water pollution prevention plans.
- O. Monitoring and Records.
  - 1. Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the discharge over the sampling and reporting period.
  - 2. The permittee shall retain records of all monitoring including all calibration and maintenance records and all original strip chart recordings from continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of

at least five (5) years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

3. Records of monitoring information shall include:
  - a. The date, exact place, and time of sampling or measurements;
  - b. The individual(s) who performed the sampling or measurements;
  - c. The date(s) analyses were performed;
  - d. The individual(s) who performed the analyses;
  - e. The analytical techniques or methods used; and
  - f. The results of such analyses.
4. Monitoring must be conducted according to test procedures approved under 40 CFR 136 and applicable Rhode Island regulations, unless other test procedures have been specified in this permit.
5. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall upon conviction, be punished by a fine of up to \$10,000 per violation or by imprisonment for not more than six (6) months per violation, or by both. Chapter 46-12 of the Rhode Island General Laws also provides that such acts are subject to a fine of up to \$5,000 per violation, or by imprisonment for not more than thirty (30) days per violation, or by both.
6. Monitoring results must be reported on a Discharge Monitoring Report (DMR).
7. If the permittee monitors any pollutants more frequently than required by this permit, using test procedures approved under 40 CFR 136, applicable State regulations, or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

P. Bypass of Storm Water Control

1. *Anticipated Bypass.* If the permittee knows in advance of the need for a bypass, he or she shall notify this Department in writing at least ten (10) days prior to the date of the bypass. Such notice shall include the anticipated quantity and the anticipated effect of the bypass.
2. *Unanticipated Bypass.* The permittee shall submit notice of an unanticipated bypass. Any information regarding the unanticipated bypass shall be provided orally within twenty four (24) hours from the time the permittee became aware of the circumstances. A written submission shall also be provided within five (5) days of the time the permittee became aware of the bypass. The written submission shall contain a description of the bypass and its cause; the period of the bypass; including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass.
3. *Prohibition of Bypass.*
  - a. Bypass is prohibited and enforcement action against the permittee may be taken for the bypass unless:

- i. The bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
  - ii. The permittee submitted notices as required in paragraphs P.1. and P.2. above.
- b. The Director may approve an unanticipated bypass after considering its adverse effects, if the Director determines that it will meet the two conditions in paragraph P.3.a. above.

Q. Upset Conditions

- 1. An upset constitutes an affirmative defense to an action brought for non-compliance with technology based permit limitations if the requirements of paragraph 2. below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- 2. A permittee who wishes to establish an affirmative defense of an upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:
  - a. An upset occurred and the permittee can identify the specific causes(s) of the upset;
  - b. The permittee facility was at the time being properly operated;
  - c. The permittee submitted notice of the upset as required in Rule 14.08 of the RIPDES Regulations; and
  - d. The permittee complied with any remedial measures required under Rule 14.05 of the RIPDES Regulations.
- 3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

R. Inspection and Entry. The permittee shall allow the Director, 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 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 equipment, practices, or operations regulated or required under this permit; and
- 4. Sample or monitor any substances or parameters at any location, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA or R.I. law.

S. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause, including but not limited to: violation of any terms or conditions of this permit; obtaining this permit by misrepresentation or failure to disclose all relevant facts; or a change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge. The filing of a request by the permittee for a

permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

T. Requiring an Individual Permit or an Alternative General Permit

1. The Director of the Department of Environmental Management (DEM) may require any owner or operator authorized to discharge storm water under this permit to apply for and obtain either an individual or an alternative RIPDES general permit. Any interested person may petition the Director to take action under this paragraph. The Director may determine at his or her own discretion that an individual or an alternative general permit is required (see RIPDES Rule 32 for reasons why an alternative permit may be required).
2. Any owner or operator authorized to discharge storm water by this permit may request to be excluded from coverage of this permit by applying for coverage under an individual permit or an alternative general permit. The request shall be granted by the issuance of an individual permit only if the reasons cited by the owner or operator are adequate to support the request. The Director shall notify the permittee within a timely fashion as to whether or not the request has been granted.
3. If a facility requests or is required to obtain coverage under an individual or an alternative general permit, then authorization to discharge storm water under this permit shall automatically be terminated on the date of issuance of the individual or the alternative general permit. Until such time as an alternative permit is issued, the existing general permit remains fully in force.

U. Reopener Clause

1. If there is evidence indicating potential or realized impacts on water quality due to any storm water discharge associated with a construction activity covered by this permit, the owner or operator of such discharge may be required to obtain an individual permit or alternative general permit in accordance with Part V.T. of this permit or the permit may be modified to include different limitations and/or requirements.
2. Permit modification or revocation will be conducted in accordance with 40 CFR 122.62, 122.63, 122.64 and 124.5.

V. Availability of Reports. Except for data determined to be confidential under Part W.1. below, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the DEM at 235 Promenade Street, Providence, Rhode Island. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the CWA and under Chapter 46-12-14 of the Rhode Island General Laws.

W. Confidentiality of Information

1. Any information submitted to DEM pursuant to these regulations may be claimed as confidential by the submitter, consistent with Rhode Island General Law 38-2-2. Any such claim must be asserted at the time of the submission in the manner



prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, DEM may make the information available to the public without further notice.

2. Claims of confidentiality for the following information will be denied:
  - a. The name and address of any permit application or permittee;
  - b. Permit applications, permits and any attachments thereto; and
  - c. RIPDES effluent data.
  
- X. Right to Appeal. Within thirty (30) days of receipt of notice of final authorization, the permittee or any interested person may submit a request to the Director for an adjudicatory hearing to reconsider or contest that decision. The request for a hearing must conform to the requirements of Rule 49 of the RIPDES Regulations.