



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

**ENVIRONMENTAL DIVISION
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August 5, 2021

Mr. Vojin Janjic
Tennessee Department of Environment and Conservation
Division of Water Resources
William R. Snodgrass – Tennessee Tower
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee 37243-1102

SENT VIA EMAIL TO Vojin.Janjic@tn.gov

Subject: TDOT Comments on the Rationale for the Draft General NPDES Permit for Storm Water Discharge
Associated with Construction Activity

Dear Mr. Janjic,

The Tennessee Department of Transportation (TDOT) is pleased to provide the below comments on the Rationale for the Draft General NPDES Permit for Storm Water Discharge Associated with Construction Activity, published on the Tennessee Department of Environment and Conservation's website.

6.7 Stabilization Practices: *At several locations in the CGP text there are time deadlines for implementing stabilization measures, using language such as "no later than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased", or "no later than 7 days" in the case of steep slopes. Some stakeholders have claimed that regulators sometimes apply these deadlines too rigidly, and requested that the language be given more flexibility to allow for site conditions, weather conditions, equipment failures, personal emergencies, etc. In response the language is proposed to be changed to "approximately 2 weeks" and "approximately one week." The division is seeking broader comment on the advisability of this change.*

TDOT also recognizes that site conditions, weather conditions, equipment failures, personal emergencies, etc. can negatively affect implementation of stabilization measures by a rigid compliance deadline and appreciates TDEC's consideration for flexibility in maintaining compliance while adverse conditions are being addressed. The proposed use of "approximate" when establishing compliance timeframes allows for some indeterminate flexibility which may result in contract, audit, and enforcement disputes. To allow for adverse condition flexibility and maintain a clear timeframes for compliance, TDOT recommends keeping the current permit language and adding the following extension language: "An extension up to 14 days is allowed for implementing stabilization when site conditions,

weather conditions, equipment failures, personal emergencies, etc. that negatively impact stabilization implementation are documented in the “weekly inspection report”. As noted below, TDOT is in agreement with TDEC’s proposed reduction of the minimum inspection frequency of one per week.

6.8 Schedule of Inspections

The current CGP language requires twice-weekly inspections of all sites. Some stakeholders assert that the state CGP should impose no more stringent requirements than those of the federal CGP, and that twice-weekly inspections are an additional cost that adds little protection for water quality. The federal CGP requires minimum weekly inspections of sites. The Department is unaware of any evidence that this lower frequency of inspections under the federal CGP has resulted in an increase in pollutant discharges, or in actual pollution. Therefore it is proposed to reduce the minimum ~~sampling inspection~~ frequency to once per week. The division is seeking broader stakeholder comment on the subject of inspection frequency.

TDOT agrees with the proposed reduction of the minimum **inspection** frequency to once per week. TDOT plans to continue self-monitoring and voluntary twice weekly inspection frequencies when site inspections warrant the need.

6.10 Individual Permits

New language offering some general criteria (“may include, but are not limited to:”) under which the division may require an Individual NPDES permit for a construction stormwater discharge is proposed under section 8.11.1. Given the very high number of construction sites across the state, the intent of this provision is to focus Department resources on construction projects that have a greater potential to result in pollution of state waters. The division is seeking stakeholder input on this clarifying language.

TDOT acknowledges that this new language clarifies the possibility that a project with CGP Coverage could be required to obtain an individual permit. The criteria for the division to require an individual permit are indeterminate and may result in high risk to TDOT construction contracts, budgets, and schedules. In addition, TDOT is concerned that any interested person who opposed the transportation project during the development may now petition for an individual permit action to delay, stop, or otherwise negatively impact project completion.

We appreciate the opportunity to share our concerns. If additional information is needed, please contact Carma Smith at (615) 253-2441 or by email at Carma.H.Smith@tn.gov.

Sincerely,



Susannah Kniazewycz, P.E.
Environmental Division Director

Cc: Mr. Preston Elliott, TDOT (Email)
Ms. Carma Smith, TDOT (Email)