

## **Storm Water Regulations**

Note: These Regulations are prepared as a direct supplement to the City of Manchester’s Storm Water Ordinance, Title V, Chapter 54: Storm Water.

### SECTION 1. GENERAL PROVISIONS

- (A) Purpose. It is the purpose of these Regulations to extend and support the Storm Water Ordinance, Chapter 54.
- (B) Administration. The Director of the Department of Highways or his designee shall administer the provisions of these Regulations.
- (C) Interpretations of Provisions. The provisions of these Regulations with respect to the meaning of the technical terms and phrases, the regulations with respect to erosion and sediment control, and other technical matters shall be interpreted and administered by the Public Works Director acting in and for the city, through its Highway Commission.
- (D) Definitions. For the purpose of these Regulations and Chapter 54, Storm Water Ordinance, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.
- (1) *“Accidental Discharge”* means a discharge prohibited by these Rules & Regulations, which occurs by chance, and without planning or thought prior to occurrence.
  - (2) *“As-built Plans”* means drawings depicting conditions as they were actually constructed.
  - (3) *“Best Management Practices”* or BMPs are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Manchester, and that have been incorporated by reference into these Regulations as if fully set out therein.  
[NOTE: See Section 6A(1-4) for recommended BMP manuals.]
  - (4) *“Channel”* means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
  - (5) *“Clean Water Act”* means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
  - (6) *“Combined Sewer Drainage System”* means a single pipe conveyance system intended to receive both sewage and storm or surface water.

- (7) “*Community Water*” means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Manchester.
- (8) “*Construction Activity*” means activities subject to the EPA Phase II Storm Water Program and the NPDES General Construction Permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (9) “*Contaminant*” means any physical, chemical, biological, or radiological substance or matter in water.
- (10) “*Department of Highways*” (*DPW*) means the Highway Division of the City of Manchester and associated departments including, but not limited to, the Environmental Protection Division (*EPD*).
- (11) “*Director of Public Works*” is the chief administrator of *DPW* and is authorized to assign *DPW* staff to oversee the implementation of these Regulations and the City of Manchester’s Storm Water Ordinance.
- (12) “*Design Storm Event*” means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a storm water facility.
- (13) “*Discharge*” means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.
- (14) “*Easement*” means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, City or other legal entity has in the land of another.
- (15) “*Erosion*” means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.
- (16) “*Erosion and Sediment Control Plan*” means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
- (17) “*Hotspot*” (“*Priority Area*”) means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.
- (18) “*Illicit Connections*” means illegal and/or unauthorized connections to the municipal separate storm water system whether or not such connections result in discharges into that system. “*Illegal Connection*” means either of the following:
  - a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or

- b) Any pipe, open channel, drain or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (19) *“Illicit Discharge”* means any discharge to the municipal separate storm sewer system that is not composed entirely of storm water and not specifically exempted under Section 2(J).
- (20) *“Industrial Activity”* means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- (21) *“Land Disturbing Activity”* means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
- (22) *“Maintenance”* means any activity that is necessary to keep a storm water facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a storm water facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the storm water facility.
- (23) *“Maintenance Agreement”* means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
- (24) *“Municipal Separate Storm Sewer System (MS4)”* means the conveyances owned or operated by the municipality for the collection and transportation of storm water, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.
- (25) *“National Pollutant Discharge Elimination System Permit”* or *“NPDES Permit”* means a permit issued pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (26) ***“Non-point Source Pollution”* means water sources and inputs within a watershed, which occur over a wide area, and are associated with particular land uses, as opposed to individual point source discharges.**
- (27) *“Non-Storm Water Discharge”* means any discharge to the storm drain system that is not composed entirely of storm water.
- (27) *“Off-site Facility”* means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
- (29) *“On-site Facility”* means a structural BMP located within the subject property boundary described in the permit application for land development activity.
- (30) *“Peak Flow”* means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

- (31) *“Person”* means any and all persons, including any individual, firm or association and any city or private corporation organized or existing under the laws of this or any other state or country.
- (32) *“Pollutant”* means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; sediment; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.
- (33) *“Pollution”* means the contamination or other alteration of any water’s physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
- (34) *“Premises”* means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (35) *“Priority Area”* means “hot spot” as defined in Definitions (17).
- (36) *“Runoff”* means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm water system.
- (37) *“Sediment”* means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
- (38) *“Sedimentation”* means soil particles suspended in storm water that can settle in streambeds and disrupt the natural flow of the stream.
- (39) *“Soils Report”* means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
- (40) *“Stabilization”* means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (41) *“State Waters”* means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the

boundaries of the State of New Hampshire which are not entirely confined and retained completely upon the property of a single person.

- (42) “*Storm Water*” means storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (43) “*Storm Water Appeals Committee*” will be a three-member committee consisting of a Highway Commissioner, an engineer from a private engineering firm and an engineer from the Department of Highways.
- (44) “*Storm Water Management*” means the programs to maintain quality and quantity of storm water runoff to pre-development levels.
- (45) “*Storm Water Management Facilities*” means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of.
- (46) “*Storm Water Management Plan*” means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of storm water runoff to pre-development levels.
- (47) “*Storm Water Pollution Prevention Plan*” (SWPPP) means a plan that clearly describes appropriate control measures that include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges and describes the interim and permanent stabilization practices for the site.
- (48) “*Storm Water Runoff*” means flow on the surface of the ground, resulting from precipitation and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (49) “*Storm Water Utility*” means the Department of Highways and its duly authorized agents created by ordinance of the City to administer the Storm Water Management Ordinance, and other Storm Water Regulations adopted by the City.
- (50) “*Structural BMPs*” means devices that are constructed to provide control of storm water runoff.
- (51) “*Structural Storm Water Control*” means a structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.
- (52) “*Surface Water*” includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.
- (53) “*Watercourse*” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (54) “*Watershed*” means all the land area that contributes runoff to a particular point along a waterway.

## SECTION 2. PROHIBITED DISCHARGES

The specific prohibited discharges in this section are not inclusive of all discharges prohibited

- (A) Violation of Water Quality Standard. No person shall introduce or cause to be introduced into the Municipal Separate Storm Sewer System (MS4) any discharge that causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit, or any state-issued discharge permit for discharges from its MS4.
- (B) Introduction of Prohibited Substances. No person shall dump, spill, leak, pump, pour, emit, empty discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4.
- (1) Any new or used motor oil, antifreeze, or other motor vehicle fluid;
  - (2) Any industrial wastes;
  - (3) Any hazardous waste, including hazardous household waste;
  - (4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
  - (5) Any garbage, rubbish or yard waste;
  - (6) Any wastewater from a commercial car wash facility; from any vehicle washing, cleaning or maintenance at any new or used automobile, or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning or maintenance of any business or commercial or public service vehicle, including truck, bus, or heavy equipment, by a business or public entity that operates more than two such vehicles;
  - (7) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
  - (8) Any wastewater from commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
  - (9) Any wastewater from any floor, rug or carpet cleaning;
  - (10) Any wastewater from the wash down or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
  - (11) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blow-down from a boiler;
  - (12) Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydro mulch material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;
  - (13) Any runoff or wash down water from any animal pen, kennel, or fowl or livestock containment area;
  - (14) Any filter backwash from a swimming pool, fountain or spa;

- (15) Any swimming pool water containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in the pool cleaning;
  - (16) Any water from a water curtain in a spray room used for painting vehicles or equipment;
  - (17) Any contaminated runoff from a vehicle wrecking yard;
  - (18) Any substance or material that will damage, block, or clog the MS4;
  - (19) Any release from a petroleum storage tank, or any leachate or runoff from soil contaminated by a leaking petroleum storage tank, or any discharge of pumped, confined, or treated waste water from the remediation of any such petroleum storage tank release, unless it complies with state and federal standards and does not contain any harmful quantity of any pollutant;
  - (20) Any pet waste as outlined in the Manchester Ordinance §90.04
- (C) Introduction of Earth-type Materials. No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with cleaning, grading, excavation or other construction activities, (or associated with landfilling or other placement or disposal of soil, rock, or other earth materials) in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable (under the prevailing circumstances).
- (D) Introduction of Sewage and Grey Water. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4; this includes gray water discharge such as washing machine discharge, sink drains, floor drains, etc. or allow such a connection to continue.
- (E) Service Station Pavement Wash Water. No person shall cause or allow any pavement wash water from a service station to be discharged into the MS4 unless such wash water has passed through a properly functioning and maintained, grease, oil, and sand interceptor before discharge into the MS4.
- (F) Pesticide and Herbicide Use. No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation. Any use of any pesticide, herbicide, or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.
- (G) Disposal of Pesticide and Herbicide. No person shall dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer, or a pesticide, herbicide, or a fertilizer container, in a manner that the person knows, or reasonably should know, is likely to

cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.

- (H) Storage of Trash, Toxic Substances and Hazardous Wastes. No person shall allow trash and debris to stand on property or collect on property and prohibit the storage of toxic or hazardous substances on property so as to allow exposure to precipitation and storm water runoff, which can affect storm water discharge to the MS4 or adjacent water table.
- (I) Litter of Urban Ponds, Lakes, Streams or River Banks. Any residential, commercial or industrial property boundary, located within 150 feet of any pond, lake, stream or river bank, shall assure that trash, debris, materials, containers, grass clippings, leaf and yard waste, wood chips, material used for cover or any such other material, does not litter this buffer area by means natural (wind or storm movement of material), by the careless discard of such material, or by any other means that displaces these objects from the owner's property boundary to anywhere within this 150 foot buffer zone area. All such violations will be addressed first through written notification with a time frame for clean up. If the clean up is not completed in the time frame stated, then the City will continue escalated enforcement as outlined in the penalty section of these Regulations.
- (J) Allowable Discharges. Notwithstanding any provisions to the contrary, the following types of discharges into the storm drain system are exempt from the prohibitions set herein:
- (1) Watering of lawns, landscaping and gardens;
  - (2) Washing of personal motor vehicles by residents;
  - (3) Draining of water from swimming pools or spas, after chlorine content of such water according to a test kit, shows a zero reading of chlorine;
  - (4) Flushing of water lines or other discharges from potable water sources;
  - (5) Flows from fire fighting activities;
  - (6) Managed minimal amounts of air conditioning condensation;
  - (7) Uncontaminated pumped groundwater;
  - (8) Discharges from rising ground waters, springs, and flows from riparian habitats and wetlands.

### **SECTION 3. PERMIT PROCEDURES AND REQUIREMENTS**

- (A) Permit Required. As outlined in §54.05 (A) of the Ordinance.
- (B) Application Requirements. As outlined in §54.05 (C) of the Ordinance.

Unless otherwise excepted by these Regulations, A subdivision submission must include the following before final approval to begin construction is given: a Storm Water



Pollution Prevention Plan; a maintenance agreement; and a non-refundable permit review fee.

The Storm Water Pollution Prevention Plan shall be prepared to meet the requirements of Section 4B(2b) of these Regulations. The maintenance agreement (if required) shall be prepared to meet the requirements of these Regulations. Review fees (if required) shall be those established by the Department of Highways.

- (C) Application Procedure. The following application procedure will apply for any construction project, whether a new development or redevelopment as outlined within these Regulations:
- (1) Applications for site plan and subdivision approvals must be filed with the City of Manchester's Planning Department on any regular business day.
  - (2) A copy of the site plan and subdivision approvals shall be forwarded to the Department of Highways for review.
  - (3) Site Plan and subdivision approvals shall include the following before all final approvals are given by the City of Manchester: one copy of the Storm Water Pollution Prevention Plan, two copies of the maintenance agreement, and any required review fees.
  - (4) Within thirty (30) business days of the receipt of a complete site plan or subdivision application, including all documents as required by these Rules & Regulations, Manchester's Planning Department shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.
  - (5) If the site plan and subdivision submission, Storm Water Pollution Prevention Plan or maintenance agreement are disapproved, the applicant may revise the submission, Storm Water Pollution Prevention Plan or agreement. If additional information is submitted, the Planning Board and Department of Highways shall have thirty (30) business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
  - (6) If the site plan and subdivision submission, final Storm Water Pollution Prevention Plan and maintenance agreement are approved by the Planning Department/Board and Department of Highways, all appropriate land disturbance approvals shall be issued.
- (E) Permit Duration. Approvals issued under this section shall be valid from the date of issuance through the date as outlined in Section 4(E).

#### **SECTION 4. GENERAL PERMIT PROVISIONS**

- (A) EPA Phase II Permit Requirements. As outlined in §54.06 (A)(1 through 4)

- (B) Requirements for EPA Phase II Permit Approvals. As outlined in 40 CFR §122.26 of the USEPA Regulations.
- (C) Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall be updated and modified as appropriate and as required by the Construction General Permit, City Ordinance and these Regulations. Any update or modification to the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer or by a competent individual who has developed SWPPPs and is approved by the Director of Public Works.

All contractors and subcontractors identified in a SWPPP shall sign a copy of the following certification statement before conducting any professional service identified in the SWPPP.

“I certify under penalty of law that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification, with the Storm Water Ordinance of the City of Manchester, New Hampshire, and with those provisions of the Storm Water Pollution Prevention Plan (SWPPP) for the construction site for which I am responsible.”

This certification must include the name and title of the person providing the signature; the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made. The SWPPP with the certifications of document creator, contractors and subcontractors shall be retained at the construction site from the date of commencement of construction through the date of final stabilization. A copy must also be made available to the City of Manchester’s Department of Highways.

- (D) Review and Approval of Application.
- (1) The Planning Department and Department of Highways will review each application for site plan and subdivision to determine its conformance with the provisions of these Regulations. Within thirty (30) days after receiving an application, the Planning Department shall provide one of the following responses in writing:
- (a) Approval of the site plan application;
  - (b) Approval of the site plan application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of these regulations and issue the permit subject to these conditions; or
  - (c) Denial of the site plan application, indicating the reason(s) for the denial.



- (2) If the Planning Department/Board has granted conditional approval of the site plan, the applicant shall submit a revised plan that conforms to the conditions established by the Planning Department/Board. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the Planning Department/Board.
  - (3) No development plans will be released until the land site plan has been approved.
- (E) Duration of Construction Activity. Every approval for land disturbance shall expire and become null and void if substantial work authorized by such approval has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction (unless construction extension is granted by the Planning Board).
- (F) Notice of Construction. The applicant must notify the Department of Highways ten (10) working days in advance of the commencement of construction. The Owner/Operator/Contractor shall conduct regular inspections of the storm water management system construction. Inspections shall be performed on all areas that have not had final stabilization, areas used for storage of materials that are exposed to precipitation, structural control measures, locations where vehicles enter and exit the construction site, open manholes and piping that could collect sediment and other controls as outlined in the SWPPP. All inspections shall take place after any rainstorm that is 0.5 inches of rain or greater and once every seven days. These inspections must be documented and written reports prepared that contain the following information:
- (1) The date and location of the inspection;
  - (2) Whether construction is in compliance with the approved Storm Water Pollution Prevention Plan;
  - (3) Variations from the approved construction specifications;
  - (4) Any violations that exist.
- (G) Joint Responsibility. Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under his/her contract or subcontract for implementing a best management practices control measure(s), is jointly and severally responsible for any willful or negligent failure on his/her part to adequately implement that control measure (if such failure causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit, or any State-issued discharge permit for discharges from its MS4).
- (H) Final Stabilization. When a site has been finally stabilized and all storm water discharges from construction activities that are authorized by these Rules & Regulations and by the NPDES permit for those construction activities are eliminated, or where the operator of all storm water discharges at a facility changes, the operator of the construction site shall submit to the City's Department of Highways a copy of the NPDES Notice of Termination (NOT), or EPA reference tracking number, of coverage under a NPDES General Permit for Storm Water Discharges. If the construction activity was performed

in a combined sewer area of the City the Notice of Termination need only be filed with the City of Manchester.

Upon final stabilization of the construction site, the owner (or duly authorized representative thereof) by submission of the NOT to the EPA is certifying that the site has been finally stabilized. The City may withhold an occupancy or use permit for any premises constructed on the site until such certification of final stabilization has been filed and the Director of Public Works has determined, following any appropriate inspection, that final stabilization has, in fact, occurred and that any required permanent structural controls have been completed.

The operator shall retain copies of any SWPPP, certifications and all reports required by these Regulations or by the NPDES permit for the site, and records of all data used to complete the NOI, for a period of at least three years for the date that the site is finally stabilized.

The operator shall assure that the City of Manchester's Department of Highways is given two full sets of as-builts of the completed project. These must be received within one hundred and twenty (120) days of the submission of the NOT. If these as-builts are not received by the City, then the City may draw funds from any retainage, performance or security bonds to have an engineer complete the as-builts from the field notes with all costs being borne by the operator.

Within thirty (30) days of the submission of the NOT the operator's construction site must be cleaned and free of any residual stock piles of materials, hay bales, silt fences or any such BMPs that were used for site erosion and sediment controls. If these are not completed the City may draw funds from any retainage, performance, or security bonds to have a contractor complete the clean up and close out any remaining site stabilization.

(I) Performance Bonds.

(1) The Department of Highways may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of site plan approval in order to ensure that the storm water practices are installed by the permit holder as required by the approved Storm Water Pollution Prevention Plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. [Or plus a certain percentage of the total estimated costs.] The performance security shall contain forfeiture provisions for failure to complete work specified in the Storm Water Pollution Prevention Plan. The applicant shall provide an itemized construction cost estimate complete with unit prices, which shall be subject to acceptance, amendment or rejection by the Department of Highways. Alternatively the Department of Highways shall have the right to calculate the cost of construction cost estimates.

- (2) The performance security or performance bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in the State of New Hampshire that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of these Regulations. The Department of Highways will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of these Regulations. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the Department of Highways.

## SECTION 5. WAIVERS

- (A) Conditions for Waiver. The minimum requirements for storm water management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:
  - (1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of these Regulations.
- (D) Land Disturbance Approvals Not to be Issued Where Waiver Requested. No land disturbance approval shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a Storm Water Pollution Prevention Plan.

## SECTION 6. STORM WATER SYSTEM DESIGN AND MANAGEMENT STANDARDS

### Storm Water Design or Best Management Practices Manual

- (A) Adoption. The City adopts as its storm water design and “Best Management Practices” (BMP) manual the following publications, which are incorporated by reference in these “Regulations” as is fully set out herein:
  - (1) New Hampshire Department of Environmental Services Sediment and Erosion Control Manual, “Green Book” (also known as the Rockingham County “Storm Water Management and Erosion Control Handbook for Urban and Developing Areas”);
  - (2) The City of Manchester’s “Standard Specifications for Road, Drain & Sewer Construction”;
  - (3) “Innovative Stormwater Treatment Technologies” – Best Management Practices Manual NHDES, May 2002; and
  - (4) “New Hampshire DOT Guidelines for Temporary Erosion and Sediment Control and Storm Water Management” - NHDOT Bureau of Construction.

**SECTION 7. INDUSTRIAL ACTIVITY DISCHARGES**

As outlined in §54.08 of the Ordinance and shall comply with the following requirements:

- (A) Any operator who intends to obtain coverage for storm water discharge associated with industrial activity under the NPDES General Permit for Storm Water Discharges Associated with Industrial Activity (“the Industrial General Permit”) shall submit a signed copy of its NOI to the Director of Public Works at least five (5) days prior to the commencement of the industrial activity at the facility. If industrial activity is already underway upon the effective date of the Storm Water Ordinance, the NOI shall be submitted within thirty (30) days.
- (B) A SWPPP shall be prepared and implemented in accordance with the requirements of the Industrial General Permit or any individual or group NPDES permit issued for storm water discharges from the industrial facility, and with any additional requirement imposed by or under these Regulations.
- (C) The SWPPP shall be prepared, signed and sealed by a Registered Professional Engineer or by a competent individual who has developed SWPPPs and is approved by the Director of Public Works, as outlined in Section 4(C).
  - (1) Qualified personnel (provided by the operator) shall conduct comprehensive site compliance evaluations as required by the Multi Sector General Permit of the Industrial General Permit at intervals of no less than once per year. Based on the results of the compliance prevention measures and controls identified in the SWPPP shall be revised as appropriate within two weeks of such evaluation and shall provide for implementation of any changes to the SWPPP in a timely manner, but in no case more than twelve weeks after the compliance evaluation.
  - (2) A report summarizing the scope of the comprehensive site compliance evaluation required by the Multi Sector General Permit personnel making the compliance inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with necessary and appropriate plan revisions shall be made and retained as part of the SWPPP for at least one year after all storm water discharges from the facility are eliminated and the required NOT has been submitted. The report shall identify any incidence of noncompliance; or, if the report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the applicable NPDES permit, and these Regulations. The individual responsible for the comprehensive site compliance evaluation shall sign the report, and it shall be submitted to the City ‘s Director of Public Works within ten days of completion.
  - (3) If the industrial facility is required by the Multi Sector General Permit to conduct semi-annual monitoring, a signed copy of each semi-annual monitoring report

prepared in accordance with the Multi Sector General Permit shall be submitted to the Director of Public Works.

- (4) By written notice, the Director of Public Works may require any industrial facility identified in accordance with this Section 6 to implement a monitoring program that includes the submission of quantitative data on the following constituents; any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for the facility, oil and grease, COD, pH, BOD5, TSS, Total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under 40 CFR 122.21(g)(7)(iii) and (iv). The Public Works Director may require written reports of any such monitoring to be submitted to him/her.
- (5) No discharge shall exceed the maximum allowable concentrations as outlined in the New Hampshire Env-Ws 1700 Surface Water Quality Regulations.
- (6) Where all storm water discharges associated with industrial activity that are authorized by the Storm Water Ordinance, and by the NPDES permit for those discharges from industrial activities, are eliminated, or where the operator of storm water discharges associated with industrial activity at a facility changes, the operator of the facility shall submit to the Director of Public Works a notice of Termination that includes the information required for Notices of Termination by Part IX of the Industrial General Permit.

**SECTION 8. ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES -** As outlined in §54.09 of the Ordinance

#### **SECTION 9. NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS**

- (A) Notification. As outlined in §54.10 of the Ordinance.
- (B) Release Reporting. Any person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing or any other release of any substances that may flow, leach, enter, or otherwise be introduced into the MS4 or waters of the United States, shall immediately telephone and notify the City of Manchester. This includes all spills of any size that enters a catch basin, culvert, or structure that conveys runoff from the site. It also includes any materials that spills outside the limits of the approved work area of the site. It also includes any spill that breaches a silt fence, or other best management control structure. To be reported also are spills that reach a wetland, stream, brook, pond, etc. whether within the work site or outside the work site.

All other spills that do not fall under the above criteria are to be recorded within the daily activity log of the site contractor, the remediation taken, and the extent and quantity of the spill.

Substances include any reportable quantity as outlined in 40 CFR Part 302; any extremely hazardous substance as established under 40 CFR Part 355, any oil that causes a film or sheen or discolors the surface of the water or causes a sludge emulsion to be deposited beneath the surface of the water or any harmful quantity of pollutant.

- (C) Immediate Notification Required. The immediate notification to the Department of Highways or the authorized enforcement agency in person or by phone, or facsimile no later than 24 hours of any incident outlined in Section 9(B), of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works or his duly authorized agent within three (3) business days of the phone or in person notice and shall include the chemical or substance name, exact location of release, time and duration of release, estimated quantity and concentration of release, source of release, precautions that should be taken in regards to release, steps taken to contain and /or clean up release and the telephone numbers of the person or persons to be contacted for further information.

If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill. This information shall also be submitted in written form within five (5) days of the incident unless waived by a representative of the City.

- (D) Liability for Damage and Loss. The notifications required in Section 9(B & C) shall not relieve the responsible person of any expense, loss, damage or other liability which may be incurred as a result of the release. This includes liability for damage to the City, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to the Storm Water Ordinance, these Regulations, or to state or federal law. Any person responsible for a release shall comply with all state, federal, and any other local requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. The responsible person shall reimburse the City for any cost incurred by the City in responding to the release.

Failure to provide notification of a release as provided above is a violation of the City of Manchester's Storm Water Ordinance.

**SECTION 10. VIOLATIONS, ENFORCEMENT AND PENALTIES** As outlined in §54.11 (A through J) of the Ordinance

**SECTION 11. ELIGIBILITY** As outlined in §54.12 (A and B) of the Ordinance.



EPA reissued the Construction General Permit (CGP) on July 1, 2003. The reissued CGP now covers both the Phase I large construction sites greater than five acres and "Storm Water Associated with Small Construction Activity," which includes construction sites from one to five acres (or smaller than one acre if part of a larger "common plan of development or sale" that totals one acre). The permit contains conditions to protect endangered species and historic properties and requires the owner and operator of the construction site to, among other things:

- Develop and implement a Storm Water Pollution Prevention Plan (SWPPP).
- Post a visible public notice at the main entrance of the construction site (or if unfeasible, at a local public building) containing confirmation of permit coverage and details on where the SWPPP may be viewed.
- As part of the SWPPP, develop a site map showing surface waters, disturbed areas, best management practices (BMPs), etc.
- Have "qualified personnel" inspect all erosion and sediment control BMPs, maintain BMPs after storm events and keep records in the SWPPP of all inspections and maintenance performed.
- Control wastes, such as discarded building materials, concrete truck washout, and sanitary wastes.
- File a Notice of Termination (NOT) form when the construction site is stabilized and revegetated.