

Appendix 2: NPDES Permits for Stormwater Discharges from Construction Sites

NPDES permits are the primary means by which the United States Environmental Protection Agency (USEPA) regulates discharges of polluted waters into our streams and lakes, and are a requirement of the federal Clean Water Act (CWA). Historically, NPDES permits were primarily issued to municipal or industrial facilities that discharged municipal wastewater or process wastewater to waters of the United States, but due to the increasing problem of polluted urban runoff, including construction site runoff, Congress amended the Clean Water Act (CWA) in 1987 to address stormwater discharges. On November 16, 1990, the USEPA published the requirements of the Phase I Stormwater NPDES Permit program in the *Federal Register* (40 CFR 122.26). Ohio, as a NPDES delegated state, designates Ohio EPA as the agency which implements the federal stormwater program in Ohio.

Phase I of the Stormwater NPDES Permit program regulates stormwater runoff **(1)** Municipal Separate Storm Sewer Systems (MS4) having a service population of 100,000 or more; **(2)** industrial facilities which tend to have material storage, handling or processing areas outdoors; and **(3)** construction activity which disturbs 5 or more acres in the larger common plan of development or sale. Sites regulated under Phase I are required to develop and implement Stormwater Pollution Prevention Plans (SWP3s) in accordance to the terms and conditions of an NPDES permit

Useful Definitions:

Construction activity is defined as any grading, grubbing, filling, clearing or excavating for non-silvicultural or non-agricultural purposes.

The larger common plan of development or sale is defined as a contiguous area where multiple separate and distinct construction activities are occurring under one "plan". The "plan" is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating that construction activities may occur on a specific plot.

On December 8, 1999, the USEPA expanded the NPDES Stormwater Permit program by designating additional sources of stormwater for regulation. Referred to as **Phase II**, these regulations affect stormwater discharges from two sources, which affect the construction industry: small construction sites and small municipal separate storm sewer systems (MS4s). These entities were required to obtain NPDES permit coverage by March 10, 2003.

Ohio EPA Construction Site Program

Under Phase I, stormwater runoff from large construction sites, disturbing 5 acres or more in the larger common plan of development or sale, were required to comply with the terms and conditions of an NPDES permit. Under Phase II, small construction sites must also comply with the terms and conditions of an NPDES permit. Small construction sites are defined as those that disturb between 1 and 5 acres in the larger common plan of development or sale. Thus, in essence, all non-silvicultural or non-agricultural construction activities, which disturb 1 or more acres in the larger common plan of development or sale, are required to comply with an NPDES permit after March 10, 2003. The only small construction activity, which is exempted under Phase II, is routine ditch or stormwater facility maintenance that will restore the original grade or capacity. Stormwater or ditch maintenance disturbing 5 or more acres would require NPDES permit coverage. NPDES permit requirements apply to all construction activities throughout the State of Ohio, regardless of whether they are within an area served by a phase II municipal separate storm sewer system or not.

Phase II provides for permit waivers for small construction activity only (1 to 5 acres in the larger common plan of development or sale). A waiver can be obtained if either:

- The rainfall erosivity factor (“R” in the Revised Universal Soil Loss Equation - RUSLE) is less than five (5) during the period when the construction activity will occur. “R” varies depending on geographic location and is dependent on the time of year that construction activities will occur and the amount of time a site will be left bare. Data for Ohio indicates that to qualify for this waiver, construction activities will have to be conducted between November and March and must be initiated, completed and stabilized within a three-week time period. As such, it is not expected that many, if any, development sites in Ohio will qualify for this waiver. Appendix A of the Ohio EPA General Stormwater NPDES Permit for Construction Activities provides the worksheets for calculating the R Factor for a specific project. It can be obtained from Ohio EPA or can be downloaded from the following website: <http://www.epa.state.oh.us/dsw/storm/index.html>
- Or, construction will occur within an area where controls are not needed based on a Total Maximum Daily Load (TMDL), or equivalent study, for the local waterbody. TMDLs are being developed for all impaired watersheds in Ohio and should be completed by 2015. TMDL is a method of allocating pollutants amongst the various sources of pollutants such that the receiving stream will meet water quality standards. To see if a TMDL has been completed for a waterbody of interest, contact the Ohio EPA. See the following website: <http://www.epa.state.oh.us/dsw/tmdl/>.

If you feel that your site qualifies for a waiver, a permit waiver form must be submitted to Ohio EPA. However, be aware that local ordinances may still require that you obtain a permit from local authorities even if you qualify for a waiver from Ohio EPA.

Requirements of the General Stormwater NPDES Permit for Construction

The NPDES stormwater permit program is largely administered via general permits developed to cover an entire industry or portion of an industry, such that all sites within that sector have the same requirements. Coverage under the Ohio EPA General Stormwater NPDES Permit for Construction Activities is obtained by filing a Notice of Intent (NOI). A site vicinity map on 8.5” x 11” paper with the boundaries of the area intended to be covered by the NPDES permit must accompany the NOI. The NOI and all other forms associated with the NPDES permit program can be obtained from the Ohio EPA, or downloaded from their website at: <http://www.epa.state.oh.us/dsw/storm/index.html>. By filing an NOI, a developer or site operator is certifying that they have developed a Stormwater Pollution Prevention Plan (SWP3) and will comply with the requirements of the NPDES permit.

The requirements of the Ohio EPA General Stormwater NPDES Permit for Construction Activities are summarized below. However, be aware that the Director of Ohio EPA has the authority to deny coverage under the general permit and require coverage under an individual permit for sensitive development sites or for chronically non-compliant developers. Under an individual permit, site-specific requirements may be more stringent than those found in the general permit and may include runoff monitoring criteria and pollutant discharge limits. Some watershed areas, such as the Big Darby Creek, may have different NPDES general permits with greater requirements, such as additional pollution or hydrologic controls or stormwater pollution prevention plan requirements. In any case, you are encouraged to consult the Ohio EPA, Division of Surface Water for the latest NPDES general permits information, copies can be downloaded from their website at www.epa.state.oh.us/dsw/permits/gpfact.html.

Administrative Requirements
File the NOI with Ohio EPA at least 21 days prior to the start of any construction activities.
If project is within an urbanized area (UA) or area where there is local approval of sediment and erosion control plans, a copy of the NOI must also be submitted to the local approving agency.
No construction activities may begin until you receive a Director's Authorization letter granting coverage under the NPDES permit.
A copy of the NOI, Director's Authorization letter and stormwater pollution prevention plan (SWP3) must be kept on site during working hours.
SWP3 must be developed prior to the initiation of construction activities.
A copy of the SWP3 must be made available to Ohio EPA, MS4 operator or local agency responsible for reviewing and approving such plans within 10 days of written request.
Amend the SWP3 whenever there is a change in site design, construction, operation or maintenance that requires the installation of best management practices (BMPs) or modifications to existing BMPs.
While the SWP3 is not typically submitted to Ohio EPA at the time the NOI is filed, Ohio EPA may review the SWP3 at any time. If Ohio EPA requests changes to the SWP3 in writing, they must be made within 7 days of the request.
Maintain a written document acknowledging understanding of the SWP3 and responsibilities under the plan signed by all contractors and subcontractors involved in the implementation of the SWP3.

Requirements Regarding Erosion Controls
BMPs, which preserve the existing natural site condition as much as feasible are required to be utilized in the SWP3, such as phased construction to minimize land disturbed at any one time, preserving riparian areas and leaving existing vegetation in place for as long as possible.
Stabilization of disturbed areas must be initiated within 7 days of reaching final grade.
Areas within 50 feet of a stream (including intermittent streams) must be stabilized within 2 days of the most recent disturbance.
Temporary stabilization of disturbed areas that will be reworked, but not for 21 days or more from the date they were last disturbed, must be initiated within 7 days of last disturbance.
Disturbed areas intended to be left idle over winter must be stabilized prior to the onset of winter weather, i.e., sustained snow cover or frozen ground conditions.
Special measures must be taken as necessary to stabilize drainage channels and stormwater outfalls.
Runoff must be diverted away from disturbed areas and steep slopes wherever practicable.

Requirements Regarding Sediment Controls
Plan sediment controls for any area that will remain disturbed for 14 days or longer.
Sediment controls must pond runoff in order to be considered functional.
Sediment ponds (including temporarily modified permanent ponds) and perimeter sediment barriers must be installed as the first step of grading and within 7 days from the start of grubbing and remain functional until all upslope development areas are restabilized.
Sediment ponds must be utilized to control concentrated flows of runoff.
Sediment ponds must be implemented for all common drainage areas with 10 or more acres disturbed at one time and whenever the capacity of sediment barriers is exceeded.
Sediment ponds must provide a minimum storage volume of 67 cubic yards per acre of total contributing drainage area.
The length-to-width ratio between the inlet(s) and outlet(s) of sediment ponds must be 2:1 or longer. Baffles must be implemented to provide this ratio if the pond cannot be configured to do so.
Sediment ponds cannot be deeper than 5 feet.
No structural sediment controls may be located in a stream. As such, permanent storm water basins located "in-line" with a stream may not be utilized as a sediment pond. Sediment barriers may not be placed across stream channels.
Sediment barriers, such as silt fence or diversions, must be implemented to prevent silt from entering water resources that run through the property.
Sediment barriers must be implemented to protect adjacent properties.
Silt fence is only allowed to be used to control sheet flow runoff from limited drainage areas. The permissible drainage area per 100 linear feet of silt fence is dependent on the slope but is no more than 0.5 acre. Silt fence can not be used to control drainage areas with a slope of greater than 50%.
No more than 10 acres may drain to a diversion.
Inlet protection must be implemented to prevent sediment from entering the storm drain system, unless that system discharges to a sediment pond.

Requirements for Controls of Other Wastes
No solid or liquid waste, including building materials or their packaging, shall be discharged in stormwater runoff.
Concrete trucks are not permitted to wash out directly into storm sewers, streams or drainage channels.
Off-site tracking of sediments by construction vehicles must be minimized.
Waste disposal via open burning is prohibited where not permitted under the State of Ohio opening burning laws.
Contaminated soils or soils where construction site chemicals have been spilled must be removed from the site and disposed of in accordance with federal, state and local regulations.
Stormwater that comes in contact with contaminated soils, or solid & industrial waste must be collected and disposed of as a wastewater.
Fuel tanks and drums or other containers holding construction site chemicals must be stored within a diked area.
Sediment-laden trench or groundwater must pass through a sediment-settling pond, or be dewatered in place using a sump pit, filter bag or other comparable method, prior to being discharged from the site.
Trench and ground water free from sediment or other pollutants may be discharged without treatment, provided this water does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.

Requirements for Post-Construction Stormwater Management
Describe post-construction BMPs and the technical basis for their selection. The rationale must address impacts on stream channel and floodplain morphology, hydrology and water quality. A mix of structural and non-structural BMPs should be chosen whenever possible.
The SWP3 must contain detail drawings for all structural post-construction BMPs.
An operating and maintenance plan for all structural post-construction BMPs must be developed by the permittee and presented to the post-construction site operator prior to termination of NPDES permit coverage. Maintenance plans must include measures for disposing of the pollutants that collect within the BMPs.
Structural post-construction BMPs are required for all projects that disturb 5 or more acres in the larger common plan of development or sale. Structural post-construction BMPs must be designed to capture and treat the Water Quality Volume (VWQ) plus an additional 20% of the VWQ.
Redevelopment projects are required to either reduce the existing, pre-construction impervious area of the site by 20% or capture and treat 20% of VWQ.
Linear projects, which do not create new impervious surfaces, are exempt from post-construction storm- water management requirements, although they minimize the number and width of stream crossings.

The NPDES permit also places requirements on the maintenance of BMPs and requires an on-going evaluation of the site to assure compliance with the NPDES permit.

Maintenance Requirements
All BMPs must be maintained in a functional condition until all upslope areas they control are permanently restabilized.
Qualified personnel (provided by the developer) must inspect all BMPs at least once every 7 days and within 24 hours of a 0.5" or greater rainfall within any 24-hour period and determine if the SWP3 has been properly implemented.
Written reports summarizing inspection results must be made available upon request. Reports must include: date of inspection, name and qualifications of the inspector, weather conditions, locations where in-stream or off-site sedimentation was observed, locations of BMPs needing maintenance, locations of BMPs failing to operate correctly or provide adequate protection, or location of areas in need of additional BMPs not in place at the time of inspection.
The reports must identify incidences of non-compliance with the NPDES permit. Where a report does not identify incidences of non-compliance, the report must contain a certification that the site is in compliance at the time of inspection.
Maintenance or repair of BMPs must be completed within 3 days of the date of the inspection that revealed they were deficient. For sediment ponds, repair or maintenance is required within 10 days of the date of the inspection.
When inspections reveal that a BMP is not effective and that another, more appropriate BMP is required, the SWP3 must be amended and the more appropriate BMP must be installed within 10 days of the inspection that revealed the deficiency.
When the inspection reveals that a BMP depicted on the SWP3 has not been installed, but is required to provide adequate control at the site, it must be installed prior to the next storm event, which produces runoff, but in no case later than 10 days from the date of inspection, which revealed the deficiency.
The reports must be maintained for three (3) years following the submittal of a Notice of Termination.

Permit Closure Requirements
Once a site reaches final stabilization and construction activities have ceased, NPDES permit coverage is terminated by filing a notice of termination (NOT). The NOT must be filed within 45 days of reaching final stabilization.
Final stabilization is defined as establishing a vegetative ground cover of at least 70% growth density, or other means of permanent stabilization, over the entire area disturbed by construction activities.
Final stabilization also requires that all temporary sediment and erosion controls be removed from the property and all sediment that was trapped by those controls to be permanently stabilized to prevent further erosion.

Stormwater Pollution Prevention Plans (SWP3s)

The selection of Best Management Practices (BMPs) within the SWP3 must follow the recommendations in this manual or other accepted BMP standards manual acceptable to Ohio EPA. Typically, a SWP3 is a combination of a narrative, drawings, plan notes and inspection reports. A SWP3 must provide BMPs for (1) sediment and erosion control, (2) controls for pollutants other than sediments, and (3) post-construction stormwater management. The SWP3 is not complete until all three areas have been addressed. The SWP3 must contain the following information:

Narrative Information
Description of the nature and type of construction activity, which will occur.
Total site area (acres) and site area expected to undergo construction activities (acres).
Runoff coefficients for the pre-construction and post-construction condition of the site.
The impervious area (acres) created as a result of development, including impervious areas created by others within the development.
The percent imperviousness created as a result of development.
Describe prior land uses including special considerations to be addressed as a result of those prior land uses. Include any existing data describing soils or quality of stormwater discharges.
Implementation schedule, which coordinates major construction operations with the implementation of erosion, sediment and stormwater management controls or operations.
Name and location of immediate receiving stream(s) or surface water(s) and the subsequent named receiving water(s).
Describe post-construction stormwater practices.
Inspection reports as required the NPDES permit (see subsection titled Maintenance Requirements above).

Pictorial Information
Site vicinity map
Limits of earth-disturbing activity, including areas used for borrow or spoil.
Soil types for all areas of the site, including locations of unstable or highly erodible soils and depth to bedrock.
Existing/proposed contours, including a delineation of drainage watersheds expected during and after major grading activities as well as the size of each drainage watershed (acres).
Location of surface waters on or within 200 feet of the site, including springs, wetlands, streams, lakes, etc.
Existing and planned locations of buildings, roads, parking facilities and utilities.
Location of erosion control measures (e.g. seeding, matting, rip rap, and mulching) and areas likely to require temporary stabilization during the course of site development.
Location of sediment ponds, including stormwater management ponds used for the purpose of sediment control. Note the storage volumes (yd ³) and drainage areas (ac).
Location of post-construction stormwater practices
Areas designated for storage or disposal of solid, sanitary and toxic wastes, including dumpster areas, areas designated for cement truck washout and vehicle fueling.
Location of designated construction entrances where vehicles will access the site.
Location of any in-stream activities including stream crossings.
Detail drawings and specifications for all sediment and erosion controls and post-construction stormwater management practices.

Engineers and SWP3 designers have the flexibility to present this information in a wide variety of formats. However the SWP3 should contain all the information necessary for contractors to fully implement the practices in timely way. All of this information should not be crowded onto one page of the plans, which will make it difficult to read and understand. The SWP3 informs the contractor what practices to install, when to install them, where to install them, how to build them correctly and how they shall be maintained. As such, proper plans coordinate the required practices with the various stages or phases of construction.

When designing a SWP3, it is important to produce a document that incorporates effective stormwater strategy with the site development. The needs of construction and the requirements for environmental protection are not mutually exclusive. Proper planning is the key to this challenging task. In particular, the SWP3 not only specifies the practices used while the site is under construction, but also assures that the post-construction stormwater strategy and water resource protection has been integrated into the design of the development. Strategies such as minimizing imperviousness, maintaining or re-establishing naturally vegetated corridor along streams, and stream channel restoration are considered during the planning stage of the development.

Developing a adequate SWP3 requires recognizing that development sites are dynamic, each having unique conditions that may affect development and implementation of practices. The SWP3 must be responsive to the constantly changing topography of the construction site. Because it is difficult for site designers to fully foresee the conditions that will be present on the site, and construction means and methods used by the contractor, the developer, engineer and contractors should review the plans prior to start of construction activities to work out foreseeable issues before earth is disturbed.

Developments that are Subdivided or Sold in Parcels

The NPDES permit recognizes that developments that are subdivided and sold off in parcels require special considerations. As such, a developer must be aware of the following requirements when dealing with subdivided properties:

- The NPDES permit allows a developer to transfer permit compliance responsibilities to the parties that purchase lots within a development. This is accomplished when the party that purchases the lot files an Individual Lot Notice of Intent with Ohio EPA. That party is now responsible for permit compliance on that lot. Note that this transfer of responsibility is not automatic upon sale. If the developer does not assure that an Individual Lot NOI has been filed, he will retain compliance responsibilities on the lot. There is no fee to file an Individual Lot NOI.
- For subdivided developments where the SWP3 does not call for a centralized sediment control capable of controlling multiple individual lots, a detail drawing of a typical individual lot showing standard individual lot erosion and sediment control practices must be provided in the developer's SWP3.
- The developer's SWP3 and a site map identifying individual lots must be made available to the parties, which purchase lots within the development.
- Permit coverage can be terminated if, and only if, all areas still owned by the developer are at final stabilization and all areas no longer owned by the developer have obtained their own NPDES permit coverage by filing an Individual Lot NOI.

In some cases, a development is sold in whole to another developer or to one large homebuilding company. In these cases, permit transfers are usually a more appropriate means of transferring permit compliance responsibilities. A permit transfer form must be filed with Ohio EPA at least 60 days prior to the proposed transfer date. If a site is sold off in large blocks (but not in whole) to other developers and large homebuilding companies, those other developers or homebuilding companies should file their own Notices of Intent (not Individual Lot NOIs) to cover those blocks. Once all NOIs have been received by Ohio EPA to cover the blocks, the developer should submit a Notice of Termination to terminate his NPDES permit. In both of these cases, the party, which purchases the development or block within the development, should obtain a copy of the original developer's SWP3 and continue to implement it within their area(s), or develop their own SWP3, as appropriate. If you have questions regarding permit transfers or Individual Lot NOIs, contact Ohio EPA.

Special Considerations Regarding Redevelopment Sites

Prior land use of a site can pose special challenges for the SWP3 designer. Redevelopment sites with prior industrial land use may contain contaminated soils or groundwater, old landfills, underground fuel tanks, abandoned natural gas or oil wells, acid mine drainage, etc. The SWP3 must address these special conditions, which may exist on redevelopment sites. Discharging runoff from these areas is typically not permitted. So, the SWP3 must find ways to keep the runoff on site or provide treatment. In most cases, additional permits must be obtained from the Ohio EPA, the Ohio Department of Natural Resources or the US Army Corps of Engineers to disturb soils within such areas. Ohio EPA may even require an individual NPDES permit for stormwater discharges from the site. When doing a redevelopment, be sure to contact these agencies to determine potential concerns. Due to these concerns, the time for development planning may be significantly longer for a redevelopment project.

Redevelopment sites also typically contain existing drainage systems. Even in cases when the existing system will be removed and replaced with a new one, there is typically a time period during which disturbed soils can enter the old system. The SWP3 designer must assure that practices are in place to

control runoff through not only the new system, but the old system until it is no longer functional. Although redevelopment sites may pose special environmental problems, there are many benefits to redeveloping a property, least of which is utilizing the existing infrastructure. Since much of the basic infrastructure serving the site may already be in place, it may significantly reduce the cost of development. In addition, an essential strategy to high quality water resources is limiting new impervious areas and protecting natural stream corridors. Redevelopment of existing urban areas is environmentally preferable to continually expanding the urban fringe by developing our farm fields and outlying communities.

Because valuable land has sat idle due to fears of liability and cleanup costs associated with industrial redevelopment sites, Ohio EPA has developed the Voluntary Action Program (VAP). The VAP program attempts to remove the environmental and legal barriers that have stalled redevelopment and reuse of contaminated properties. The VAP program allows property owners, lenders and developers to investigate and clean up contaminated properties without direct oversight from Ohio EPA. As long as a property is cleaned up in accordance with the rules set forth in the VAP program, the Director of Ohio EPA will issue a covenant not to sue, which releases the owner from State civil liability, thus making the property more attractive for development. For more details concerning the VAP program, contact Ohio EPA.

Small MS4 Program

Requirements within the small MS4 program also affect the construction and development industry. Under Phase II, all publicly-operated MS4s located within urbanized areas (UA) were required to apply for NPDES permit coverage by March 10, 2003. The term MS4 does not refer solely to municipal storm sewer systems, but rather has broader applications. It not only includes local jurisdictions such as cities and townships, but includes state Departments of Transportation, universities, local sewer districts, hospitals, military bases and prisons. According to Title 40 of the code of federal regulations Part 122 Section 26 (b)(8), an MS4 means:

“A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are

- (a) Owned and operated by a State, city, town, borough, county, parish, district, association, or other public body (created pursuant to State law) including special districts under State law such as sewer districts, flood control districts, or drainage districts, or similar entity, or a designated and approved management agency under section 208 of the Clean Water Act that discharges into the waters of the United States,*
- (b) Designed and used for collecting or conveying stormwater,*
- (c) Which is not a combined sewer, and*
- (d) Which is not part of a Publicly Owned Treatment Works, i.e., part of the sanitary sewer system.”*

Streams or other naturally occurring drainage channels are not typically considered to be part of the MS4. If a community has both combined and separate sewer areas, these regulations apply only to the separate sewer systems. For those communities with combined sewer areas, it each storm sewer should be assessed on a case-by-case basis. There are instances of separate storm sewer systems within “combined sewer areas”. If a storm sewer or ditch discharges directly to a water of the state under normal operating conditions, it is a separate storm sewer and must be regulated under this program.

The MS4 program only applies to entities, which lie with an Urbanized Area (UA). The US Census Bureau defines a UA as:

“A land area comprising one or more places - central place(s) - and the adjacent densely settled surrounding area - urban fringe - that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile.”

The boundaries of the UA for purposes of the small MS4 Stormwater NPDES Permit program were determined by the results of the 2000 Census. Maps depicting the boundaries of the UA can be obtained from Ohio EPA or downloaded from the following USEPA website:

<http://cfpub.epa.gov/npdes/stormwater/urbanmapresult.cfm?state=OH>

Ohio EPA provides lists of jurisdictions in Ohio, which lie in whole or in part within an UA as determined by the 2000 Census. It is important to note that the boundaries of the UA change with each decennial census. However, once a municipality or township is named within a UA, it remains regulated under the NPDES stormwater program even if future censuses remove it from the UA boundary.

The NPDES permit issued to small MS4s includes two requirements, which directly affect the construction and development industry. Affected jurisdictions are required to develop a local construction site runoff control program as well as develop a post-construction stormwater management program.

MS4 Construction Site Runoff Control

Jurisdictions within Urbanized Areas are required to develop a local sediment and erosion control program that includes the following five elements:

- (1) Pass an ordinance or other regulatory mechanism requiring the implementation of proper sediment and erosion controls and proper controls for other wastes on construction sites that disturb 1 or more acre of land in the larger common plan of development or sale, i.e., require stormwater Best Management Practices (BMPs) on construction sites. This includes redevelopment sites where 1 or more acres will be disturbed by construction activity.
- (2) Have a procedure in place for pre-construction review of the Stormwater Pollution Prevention Plan (SWP3), being sure to consider potential water quality impacts that the construction project may have on the receiving stream(s).
- (3) Site inspection during construction to ensure compliance with the SWP3.
- (4) Have sanctions to ensure compliance (such as stop work orders, monetary fines, bonding requirements or permit denial).
- (5) Establish procedures for the receipt and consideration of information submitted by the public.

In most cases, the requirements of the local program will mirror the requirements of the NPDES permit issued by Ohio EPA. Under Phase II regulations, Ohio EPA will review local programs and can certify them as a “qualifying local program”. This means that if a construction site is located in a community covered by a qualifying local program, then the construction site operator’s compliance with the local program constitutes compliance with the NPDES permit. Check with Ohio EPA to determine whether a particular local program has been certified. However, the operator will still be required to obtain coverage under an NPDES permit issued by Ohio EPA.

Be aware that in some cases, the qualifying local program will have more stringent requirements than the baseline requirements set forth in the NPDES permit. As such, operators should contact the municipality or township to determine local requirements regarding erosion and sediment control on construction sites.

Post-Construction Stormwater Management Program

In addition to a local program for construction site runoff, jurisdictions within Urban Areas must also develop a program for long-term stormwater management from new developments or redevelopment sites that disturb 1 or more acres. This program is referred to as post-construction stormwater management because it addresses the stormwater discharges, which occur after the site is fully developed. The local program must:

- Develop and implement strategies, which include a combination of structural and/or non-structural BMPs.
- Have an ordinance or other regulatory mechanism requiring the implementation of post-construction runoff controls to the extent allowable under State or local law.
- Ensure adequate long-term operation and maintenance of these controls

The suite of post-construction BMPs implemented on any given site must be capable of not only reducing or removing the pollutants found in urban runoff, but also reducing the impacts caused by discharging increased quantities of runoff when impervious surfaces are created. Ohio EPA requires post-construction stormwater discharges to be protective of stream channel and floodplain morphology and hydrology but does not impose specific design standards for flood control. The local government usually determines flood control requirements. As such, each community must be consulted individually to determine local requirements.

NPDES permits require structural post-construction practices for all large construction activities. Structural BMPs must capture and treat the water quality volume as described in the Ohio EPA General Stormwater NPDES Permit for Construction Activities, and in the structural practices section of chapter 2 of this manual. The latter contains specifications for non-proprietary structural post-construction practices, which have been shown to improve the quality of stormwater runoff. The design of these BMPs has been reviewed to assure that they comply with the requirements of the current NPDES permit.

As noted in the post-construction BMP section of this manual, sound planning procedures are an integral part of post-construction stormwater management. Guiding growth away from environmentally-sensitive areas or adopting zoning or building regulations that allow developers to minimize the amount of impervious surfaces created by development will go a long way toward meeting the objectives of this program. Still stormwater practices like those contained in Chapter 2 of this manual will be a required part of this program. Because requirements will vary from jurisdiction to jurisdiction, if you are developing a site within an urbanized area, contact the local jurisdiction to determine the specific requirements of the local stormwater management program.

