

**RESPONSE TO COMMENTS**  
**for**  
**GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION**  
**ACTIVITY**  
**MPDES PERMIT MTR100000**  
October 25, 2012

On August 6, 2012 the Department of Environmental Quality (DEQ) issued Public Notice MT-12-38 stating the DEQ's intent to issue the Montana Pollutant Discharge Elimination System (MPDES) *General Permit for Storm Water Discharges Associated with Construction Activity* (General Permit). The Public Notice stated that the DEQ had prepared a draft General Permit, Fact Sheet, and Programmatic Review Environmental Assessment. The Public Notice required that all comments received or postmarked by September 5, 2012 would be considered in the formulation of a final decision and issuance of the General Permit.

The Department received fourteen emails or letters from various agencies, organizations, and individuals on the MPDES General Permit and/or Programmatic Review Environmental Assessment, as listed in Table 1 below. The Department has prepared a response to all significant comments as required by ARM 17.30.1377. The Department has considered these comments in the preparation of the final permit and decision.

**TABLE 1 – LIST OF PERSONS SUBMITTING WRITTEN COMMENTS**

COMMENTOR	NUMBER*
Sletten Construction Companies (Russell Robertson) - Email	1
Kelly Redmond - Email	2
Wickens - Email	3
Chris Connors - Email	4
Yellowstone Environmental Contracting LLC (Zac Mader) - Email	5
Tamietti Construction Co. (Bill Tamietti, Jr.) - Email	6
Riverside Contracting, Inc. & SK Construction, Inc. (Stacy Jo Hill) - Email	7
Dan Gruber & Co. (Dan Gruber) - Email	8
Schellinger Construction (Rob Koelzer) - Email	9
U. S. Environmental Protection Agency, Region 8 (Greg Davis) - Letter	10
Schellinger Construction (Mark Cyr) - Email	11
Western Environmental Trade Association (Mark Lambrecht) - Email	12
Victoria Diekemper - Email	13
Montana Contractors Association (Cary Hegreberg) - Letter	14

\* This commentor number is indicated at the end of the corresponding comment below

**RESPONSE TO COMMENTS**

Comment #1:

This following is a summary of a similar comment provided from thirteen of the fourteen commentors (EPA is the exception):

The owner of a construction project must be the permittee rather than the contractor, or at least be a joint-permittee, for the following reasons:

- ensure both owners and contractors have vested interest;

- provide appropriate commitment to environmental protection;
- contractors are not involved in the planning and design of a project;
- contractors have no control over details and specifications;
- contractors are removed from long-term operation & maintenance issues after construction is completed;
- contractors are not familiar with historical drainage and flow patterns;
- contractor difficulties regarding shifting responsibility to owners when contracts are done (through permit transfers);
- contractors are mandated to take all responsibility for storm water management;
- needs to be consideration of sediment erosion caused by sources beyond the control of operators;
- conflict over liability issues; and
- fulfilling contractual obligations.

**Response:** The term “owner or operator” is defined in 75-5-103(25), Montana Codes Annotated (MCA), and represents the conventional term used for permittees in the MPDES permitting program. Additionally, in 75-5-401(1)(c), the Montana Water Quality Act indicates the Department must allow an owner or operator to notify the Department of the intent to be covered under the General Permit. Consequently, based on this statute, the Department does not have the authority to specify that an “owner” obtain permit coverage over an “operator”. Furthermore, the Department’s current requirements do allow an “owner” to obtain permit coverage instead of an “operator” (which in this particular situation is typically assumed to be a hired construction contractor). This flexibility allows any party meeting the definition of “owner or operator” to obtain permit coverage. Also, for the purposes of this General Permit, clarification of what parties are considered an owner or operator is discussed in Part III of the Fact Sheet. Consequently, the current “owner or operator” permit requirement was left unchanged.

Comment #2:

Authorization (Part 1.2.1): Could the Department provide a timeframe where the permittee can expect either the authorization letter or notification that the NOI is incomplete? This would help ensure that work is not initiated prior to having authorization. (7)(12)(14)

**Response:** Based on 75-5-401(1)(c), permitting under this system uses a Notice of Intent (NOI) system whereby the authorization under the General Permit is effective upon receipt of the NOI, Storm Water Pollution Prevention Plan (SWPPP), and fee. Under the NOI process, a “Confirmation of Receipt” letter is sent out to confirm a complete NOI was submitted. The Department is not aware of an applicable regulation that dictates a processing timeframe. As a public service, the Department strives to process all NOIs within 10 business days of receipt. Consequently, there were no changes to permit documents.

Comment #3:

Termination (Part 1.3): The second paragraph indicates that an NOT cannot be submitted until removal of temporary BMPs. Could it be clarified that biodegradable measures do not need to be removed? (7)(14)

**Response:** The term biodegradable is not defined in rule and is open to interpretation, as it may range from weeks to years for the BMP product to biodegrade. As temporary BMPs may decompose, they may continue to discharge potential pollutants due to the construction activity, thereby requiring a potential need to maintain permit coverage. Also, temporary BMPs which are left in place beyond their intended need and function can lead to problems with long-term storm water management, such as by impeding or altering flow patterns. The Department has received complaints about BMPs being left intact, primarily from an

aesthetics standpoint, but also due to altering intended long-term storm water drainage patterns. Consequently, this permit requirement was left as is, in order to provide a consistent requirement which accomplishes permitting needs and can be readily and understandably applied for all permittees in all situations.

Comment #4:

Transfer (Part 1.4): Also with the permit transfer, could DEQ clarify that a permittee is responsible for compliance during the time in which they hold the permit? It should be understood that if a transfer is submitted, a new permittee cannot be held responsible for actions of the previous permittee, only from the date which the transfer becomes effective. (7)

**Response:** Permit transfers do not absolve the transferee or transferor of liabilities and responsibilities from the past. Permit transfers are a “minor modification” (see ARM 17.30.1362) to be used strictly for transfer of ownership or a change in the name of the permittee. The language in Part 1.4. was left as is.

Comment #5:

Inspections (Part 2.3): We appreciate the options provided for inspection frequency of weekly or biweekly; however, we request that there be more flexibility in modifying the schedule if necessary rather than being committed to one or the other upon submittal of the NOI. Scheduling, project phases, or unexpected conditions could prove one more effective than the other. We ask that infrequent modifications be allowed, understanding that all changes be required to be documented within the SWPPP Revision Log. (7)(14)

**Response:** Adequately performing self-inspections have been a significant historical compliance problem. Based on Department inspections, there have been 144 permit violations documented for failure to conduct inspections since early 2007 (approximately the last General Permit cycle). The Department wants to ensure there is a firm undisputable commitment from the permittee to do self-inspections one way or the other throughout the permit authorization period, with minimal potential confusion. The NOI process is a streamlined permit process which depends on the permittee notifying the Department up-front of their intent to comply with the conditions of the permit through the information in the NOI Package initially submitted. This means the initial notification of the self-inspection option. The NOI process will not accommodate such changes through time, without a different process, and potential additional forms and fees. Also, given the voluminous permitting universe under the General Permit, regulators cannot depend on or accommodate a system which allows permittees to readily switch back and forth between self-inspection options. It is possible to switch back and forth on the type of inspections, but permittees would have to submit an updated NOI and fee. The permittees must use careful planning when selecting which option they prefer in consideration of potential resources, phasing, and/or unexpected conditions. The permit language was left as is.

Comment #6:

BMP Maintenance (Part 2.3.5): The proposed permit requires that maintenance or modifications be completed before next storm event. Due to situations such as safety concerns or saturated conditions that would result in further damage, this could be infeasible. Could language be included to allow for delayed corrective action due to justifiable situations? (7)

**Response:** The Department has experienced significant compliance problem historically with all types of construction projects due to permittees not adequately installing and/or maintaining their BMPs, if they were even installed at all, and not adequately managing their pollutant sources. Based on Department

inspections, there have been 273 permit violations for not properly developing or implementing the SWPPP and associated BMPs since early 2007 (approximately the last General Permit cycle). The Department believes that with the appropriate selection, installation, and maintenance of BMPs, and the appropriate attention and prioritization from the permittee, the vast majority of modifications or maintenance to BMPs can be accomplished prior to the next storm event. This is particularly important if discharging into a listed impaired waterbody where one of the pollutants of concern is identified as sediment. If for some unexpected reason these Part 2.3.5. requirements cannot be accommodated prior to the next storm event, then as a last resort the permittee can perform a delayed corrective action under the provisions of Part 4.17. Reporting Requirements – Anticipated Noncompliance and/or Part 4.21. Reporting Requirements – Twenty-four Hour Reporting. This requirement was left unchanged.

Comment #7:

Corrective Actions (Part 2.4): The permit indicates that BMPs must be revised if a failure of erosion or sediment controls occurs. However, it's extremely possible to have failures because conditions were beyond what could reasonably be expected, especially without a design frequency storm designated in the permit. There should be flexibility in the language when modifications are not justified. (7)(14)

**Response:** Part 2.4. states the permittee must review and revise the selection, design, installation, implementation, and maintenance of BMPs to ensure the condition is eliminated and will not be repeated in the future. The reasonable BMP scenario mentioned in the comment can be accommodated, even if it is just increasing the maintenance and/or self-inspection protocol related to the particular BMP. This requirement is relatively broad, and if the full Part 2.4. is read and taken in context with the rest, this requirement does not necessarily mean that one BMP has to be replaced with another of a different type. If the current permit language was relaxed, such as by stating "as necessary", it is the Department's experience that not much will change to try to constructively improve the situation. It is the Department's experience that poor planning, lack of BMPs and/or inadequate installation/maintenance of them, and inadequate management of pollutant sources typically results in the unforeseen circumstances. As stated in a prior response, based on Department inspections, there have been 273 permit violations for not properly developing or implementing the SWPPP and associated BMPs since early 2007 (approximately the last General Permit cycle). This requirement is included as is to ensure that action is taken to consider all constructive improvements to the BMPs and managing potential pollutant sources. Also, the list of items triggering the need for this review/revision, as stated in the latter portion of Part 2.4., consists of relatively more important triggering factors such as spills, causing exceedances of water quality standards, not meeting effluent limits, improper BMP selection/maintenance, or identification of discharges off-site. No changes were made to permit documents.

Comment #8:

Steep Slopes: Steep slopes are referenced in the permit in numerous places but not defined. What is considered a steep slope for the purpose of the special considerations in this permit? (7)(14)

**Response:** The Department has revised Part 2.1.1. of the permit to indicate that "steep slopes" are considered to be "15 percent or greater in grade". This is a default threshold which EPA used in their 2012 Construction General Permit, and it is also comparable to the threshold used in a number of states, including Washington and Idaho.

Comment #9:

SWPPP Revisions (Part 3.12.2): The permit requires that the SWPPP Revision Log include the time along with the date of the changes in the field. These types of changes often take hours or even days and this simply becomes a compliance sticking point for information tracking with little added benefit. We ask that the time element be removed. (7)(14)

**Response:** The time is necessary in order to work in synchronization with the requirements stated in Parts 2.3. and 2.4. of the General Permit. Inspections may be time-sensitive with respect to rainfall and/or snowmelt events, the dates and times of inspections must be specified, and corrective action events (including BMP changes and SWPPP revisions) must be addressed in a timely, clear, and consistent manner to ensure compliance with the permit. Based on Department inspections, there have been 144 permit violations documented for failure to conduct inspections since early 2007 (approximately the last General Permit cycle), as well as 145 violations for failure to maintain records and 273 permit violations for not properly developing or implementing the SWPPP and associated BMPs. In response to this comment, it was noticed the SWPPP Revision Log in Attachment C of the SWPPP Form requests only the date be specified. Consequently, this has been corrected to request both the time and date in order to be consistent with the General Permit.

Comment #10:

General Permit Attachment - Delegation of Authority Form (Attachment A): There is some confusion about when this form is required. The permit (Part 3.2.1) indicates that the Primary & Secondary SWPPP Administrators don't need to be included with the form because they are already covered by Section F of the NOI. However, the drafted SWPPP Form indicates Attachment A must be completed. (7)(14)

**Response:** The NOI Form includes the necessary information regarding the Primary and Secondary SWPPP Administrator, and with the signature of the NOI Form by the appropriately qualified signatory, these SWPPP Administrators are thereby duly authorized representatives and have this delegation of authority. If additional SWPPP Administrators are to be utilized beyond the maximum of two identified on the NOI Form, and/or if new SWPPP Administrator person(s)/position(s) are to be utilized at a later date which were not included on the NOI Form, then the Attachment A – Delegation of Authority Form could be used for these additional and/or changed SWPPP Administrators. For clarification regarding this matter, some amended or additional language has been included in Part 3.2. and the SWPPP Form (including Attachment A – Delegation of Authority Form). Also, Attachment A is part of the SWPPP Form, so please see the response to Comment #15.

Comment #11:

General Permit Attachment - SWPPP Training Log (Attachment B): Can a different form be used? Or will the Department be more flexible on the content/format? The proposed form doesn't accommodate our expected situation where we have multiple personnel that have attended different courses and/or dates. We would prefer a more company-specific sheet, rather than project-specific, as personnel rotate through a project depending on job phases such as grading crews vs. paving crews. (7)(14)

**Response:** This Form is actually an attachment to the SWPPP Form, so please see the response to Comment #15. The SWPPP Training Log in Attachment B serves to document the training of the SWPPP Administrator(s) as required under Part 3.2. of the General Permit. This Form does not pertain to documenting SWPPP training for other personnel, although it can optionally be used by the permittee for that if desired. Although there is no limit to the number of SWPPP Administrators a particular permit authorization can have, it is expected that for most permit authorizations there will be only one or a few SWPPP Administrators (not including other staff), so completion of this form is not expected to present

difficulties in the majority of situations. For those receiving training who are not SWPPP Administrators, this form is optional and/or company forms may be used as necessary and desired. Also, since this is a “one-size fits all” General Permit which will pertain to numerous construction projects and permittees, the Department cannot make the form company-specific. However, Part 3.2. and the SWPPP Form (including Attachment B) have had some clarifying language added to address this issue.

Comment #12:

General Permit Attachment - Self Inspection (Attachment D): In Point 5, the Type of Inspection, “Construction Completed or Winter” should be modified to “Construction Completed or Suspended” (7)(14)

**Response:** Comment acknowledged, and the fifth item of Attachment D – Self Inspection Form has been revised to more accurately reflect the three types of inspections correlating with permit parts 2.3.1., 2.3.2., and 2.3.3. Also, this Form is an attachment to the SWPPP Form, so please see the response to Comment #15.

Comment #13:

General Permit Attachment - Self Inspection (Attachment D): Can a different form be used as long as all required elements are included? The Project Name should be included on the form. The SWPPP Administrator Name & Title is redundant by being required in both Points 3 and 17. (7)

**Response:** This Form is an attachment to the SWPPP Form, so please see the response to Comment #15. The permit authorization number provides a consistent and pertinent dedicated reference, unlike the project name, which can and has been known to vary. Also, as these are to be maintained with the SWPPP (SWPPP Form), the need for both the permit authorization number and project name is unnecessary. The third item asks for SWPPP Administrator information as there may be multiple SWPPP Administrators performing the inspection, but the form signature requires only one SWPPP Administrator and provides more space to legibly print-out the corresponding name and title. No changes were made to permit documents.

Comment #14:

General Permit Attachment - Phase Sheet (Attachment E): This form is awkward and burdensome with this information being tracked on the site map, SWPPP revision log, and/or inspection records. It seems as extremely redundant and we recommend it be eliminated. Will its use be required? (7)

**Response:** This Form is an attachment to the SWPPP Form, so please see the response to Comment #15. The Phase Sheets, as a part of the overall SWPPP Form, are intended to document requirements related to Part 3.3. of the General Permit. Under prior General Permits and the associated SWPPP Forms, the Department had compliance problems regarding the adequacy and function of SWPPPs. SWPPP site maps, revisions, and/or self-inspections were often deficient. As stated in a prior response, based on Department inspections, there have been 273 permit violations for not properly developing or implementing the SWPPP and associated BMPs since early 2007 (approximately the last General Permit cycle). Also, as a single site map is often used as opposed to multiple site maps in projects which have multiple phases, it is often not clear exactly what BMPs are to be used where and when with respect to phases. The Department clearly recognized a need to better address different phases and construction activity sequencing through time with respect to potential pollutant sources and BMPs. This General Permit, the consequent SWPPP Form, and this Phase Sheet for the SWPPP Form have been developed accordingly. The new SWPPP Form, including

this Phase Sheet and other attachments, was developed to ensure all requirements are captured adequately. No changes were made to permit documents. No changes were made to permit documents.

Comment #15:

SWPPP Form - Will this specific form be required, or will the permittee be allowed to use their own format as long as all required permit elements are present? (7)(14)

**Response:** The SWPPP and the five associated attachments are not required to be used. The SWPPP Form was developed to directly match the required permit, and the Department has provided the SWPPP Form as a convenient and efficient tool for permittees to comply with the permit. No changes were made to permit documents.

Comment #16:

SWPPP Form - SWPPP Administrator (Section D, Check Box 1): See comment #10 above. (7)(14)

**Response:** See response to Comment #10 above.

Comment #17:

SWPPP Form - Section E: As indicated above, the Phase Sheet (Attachment E) are extremely burdensome if each BMP is considered an item for each row within the table. This seems unreasonable given the detail already required in the Site Map and narrative portions of the SWPPP. (7)

**Response:** See responses to Comments #14 and #15 above. No changes were made to permit documents.

Comment #18:

SWPPP Form - Section F, Point 6: What is the purpose and advantage of this information? These numbers are typically subjective and past experience of determining these figures has had little bearing on SWPPP administration. It seems they would have more advantage for vertical building sites (typically less than 5 acres) and in locations such as urban areas where increases in impervious surface have significant impact within the MS4 systems and could trigger the need to evaluate Low Impact Development possibilities. (7)

**Response:** The basis for these requirements is, in part, because it is required information in both federal and state rule (40 CFR Part 122.26(c)(ii)(E) and ARM 17.30.1115(2)(a)(v)). The NOI Package, which includes both the NOI Form and SWPPP, must include an estimate of the runoff coefficient and increase in impervious area. The Department believes these numbers are not subjective as they are to be estimated based on the site-specific ground cover conditions at the construction site. Regardless of whether construction is in a relatively more urban setting, understanding runoff coefficients and impervious areas, and their relative change due to the construction project, is useful and beneficial in selecting optimal BMPs for the construction project, as well as longer-term storm water management. Evaluating these criteria is helpful in minimizing pollutant discharges with respect to new development or redevelopment, which is what construction projects typically pertain to. No changes were made to permit documents.

Comment #19:

NOI Form - Section H: What is the difference between the "Total site area" and the "Entire Project Size"? (7)

**Response:** The “total site area” requests the total acreage of the “site” (as defined in ARM 17.30.1102(22)). This can include areas with or without construction-related ground disturbance. Within this site area, the area of construction-related ground disturbance is requested. The federal EPA database (ICIS) used for this type of permitting requests an “Entire Project Size” category to be specified which is based on the area of construction-related ground disturbance. Consequently, the NOI Form includes a category drop-down list for this to be selected from in various ranges of disturbed acreage. The NOI Form was revised to provide clarification regarding this.

Comment #20:

NOI Form - Fees: Is there a fee, possibly a smaller one, available for sites <1 acre? This would reduce the burden on smaller operators, such as individual home builders, that are part of a larger common plan. (7)

**Response:** No such fee is currently available as provided in the fee rules, which are found in ARM 17.30.201. Fees are periodically assessed and adjusted by the Department, but this is not included in the reissuance of this General Permit. Also, sites smaller than an acre typically do not require permit coverage unless parties elect to break-up permit coverage for portions of a larger common plan of development or sale. No changes were made to permit documents.

Comment #21:

I am concerned that the Environmental Protection Agency’s effluent guidelines were included into Part 2.1.1. of the permit verbatim as technology based limits without further clarifying how operators can effectively meet the permit requirements.

In 2009, the EPA promulgated effluent guidelines and new source performance standards to control the discharge of pollutants from construction sites (see 40 CFR Part 450). This rule is intended to work in concert with existing state and local programs, adding a technology-based “floor” that establishes minimum requirements that apply nationally. The EPA crafted the non-numeric effluent guidelines to allow flexibility in how the permitting authority implements these requirements in permits. Thus, each National Pollutant Discharge Elimination System (NPDES) permitting authority has discretion within this somewhat broad requirement to further define what it means to minimize sediment discharges, or to achieve any of the other non-numeric limits (See 74 FR 63016). The proposed permit (MTR100000) should contain specific permit requirements and provide an explanation of how the language is consistent with the non-numeric effluent limits in the effluent guideline upon which they are based. Examples, including but not limited to the following permit requirements, which reflect this concern follow:

1. Part 2.1.1. reads that operators must design, install, and maintain controls in order to “provide and maintain natural buffers around state surface waters.” Without further guidance, it cannot be determined what is considered a state surface water, what level of buffer protection should be required, and at what distance from a surface water, should additional buffer protection should be provided. As an example of further specificity for this requirement, the EPA’s Construction General Permit issued on February 16, 2012 requires operators to maintain a 50-foot undisturbed buffer, equivalent erosion and sediment controls, or a combination thereof when a surface water is located within 50 feet of a project’s earth disturbance; and
2. Part 2.1.1. reads that operators must design, install, and maintain controls in order to “minimize sediment discharges from the site.” Without further guidance, this could be viewed as open-ended and subject to operator interpretation. Additional clarification could be provided to address expectations for

installation and maintenance of vehicle track-out areas, perimeter controls, sediment stockpiles, stormwater inlets, and areas of exposed soils.

There are several mechanisms by which specificity could be directly included or incorporated by reference into this permit. As written, the effluent limits provided in Part 2.1. may not be clearly articulated enough to provide construction site operators with the specificity necessary to adequately budget, plan, and execute compliance with the proposed permit. (10)

**Response:** The Department has developed BMP guidance in the past year which will be supplemented by SWPPP guidance to help lend more clarity to how the SWPPP is to be developed and implemented to ensure compliance with the effluent limits in Part 2.1. Also, similar to EPA's rationale, the requirements in Part 2.1. extend EPA's technology-based floor on to the regulated community to allow flexibility in various diverse settings.

To elaborate, in a large and widely-varying geographic state, and with relatively low population, development, industry, and precipitation, Montana does not necessarily face the same caliber of problems regarding construction storm water pollution. Furthermore, without the relative problems and consequent resources dedicated to resolving it, when EPA issues general requirements without specificity, it is often more difficult for states to justify and develop defensible prescriptive requirements instead of EPA.

Consequently, we have tried to provide flexibility to permittees and help ensure requirements are within reason for Montana. For example, "surface water" is a defined term in the storm water rules (ARM 17.30.1102(32)), and given the semi-arid nature of Montana and the sparse development, there are many surface waters which do not necessarily have good vegetation along them to lend better pollutant-reducing benefit to a prescriptive buffer separation distance. In some cases, the development and consequent construction may actually be creating a more functional and beneficial vegetative buffer along "surface waters" with respect to longer-term storm water management concerns. This is one reason why a prescriptive and potentially somewhat arbitrary buffer distance may not necessarily be as easily applicable or reasonable.

Additionally, Montana has atypically permitted MS4s for all cities with populations over 10,000 people (instead of 50,000), yet this still results in less than 1% of the state's overall geographic area being subject to potential urban-related storm water pollution issues. Most development and consequent construction tends to be around these same relatively urban areas. As these developing areas often have the MS4 permit-related programs and other local requirements or issues being implemented, including various progressive construction and post-construction initiatives, we do not want to be too prescriptive or restrictive. No changes were made to permit documents.

Comment #22:

WETA understands that the MCA and others are providing more specific comments on the permit and related documents and requests that the department take the necessary steps to make the permitting and implementation of the storm water management as straight forward, efficient, and as flexible as necessary to accomplish the goals of the program – but also allow work to be done at the various construction sites without undue regulatory complications or paperwork. (12)

**Response:** Comment acknowledged, particularly as these are the Department's goals as well.

Comment #23:

General Permit – Part 1.4.: Supplemental to Comment #1, the MCA believes a permit transfer should be immediate upon the submittal to the Department of a signed acceptance of the permit by the owner or other permittee. Whether the transfer is a result of a change in contractors or assumption of control by the owner, the specified 30-day period creates unnecessary issues especially when the original permittee is off the site and no longer has any control or ability to manage the associated storm water. In addition, there should be a clear delineation of the responsibilities between the original permit holder and the new permit holder. It is unfair to attribute responsibility for storm water management to a person or entity that did not hold the permit when potentially improper activities took place. (7)(14)

**Response:** See responses to Comments #1 and #4.

Comment #24:

General Permit – Part 2.3.5.: The permit should include language allowing for delayed corrective action when circumstances so warrant. (14)

**Response:** See responses to Comments #6 and #7.

Comment #25:

The proposed permit requires that a “SWPPP Administrator” meet the authorized representative criteria in the permit. Recognizing that the permit accounts for a delegation of authority, it appears some clarification may be needed to make it clear how this process shall work if the permittee engages the services of an independent contractor or engineer to perform these tasks. The MCA wants to make sure that any ambiguity that may exist in delineating who may be a SWPPP Administrator does not unintentionally reduce the number of individuals who can be relied upon to perform this service. (14)

**Response:** The Department expects that in most circumstances the permittee will be able to serve as, and meet the qualifications regarding, a SWPPP Administrator. The critical factor will be ensuring appropriate legal authorities and capabilities are provided to a hired person/position serving as a SWPPP Administrator in order to meet the qualifications and responsibilities stated in the permit. Also, the permit provides that there can be more than one SWPPP Administrator should outside help be desired or necessary. Also, see responses to Comments #10 and #15 above. No changes were made to permit documents.