



3.2 Applicable State and Federal Regulations

3.2.1 Tennessee Construction General Permit

The State of Tennessee General NPDES Permit for Discharges of Stormwater Associated with Construction Activities is henceforth referred to as the “Construction General Permit” (CGP). Applicable to all areas of the State of Tennessee, the CGP is intended to regulate the pollution prevention and the control of wastes during construction activities. Specific to site developments, the CGP emphasizes the application of best management practices for purposes of erosion prevention and sediment control and the control of other construction related materials and wastes. In general, the CGP authorizes point source discharges of stormwater from construction activities that result in the disturbance of one acre or more of total land area. Projects or developments of less than one acre of land disturbance are required to obtain authorization under the CGP if the construction activities at the site are part of a larger common plan of development or sale. Further, there are permit provisions for development less than one acre of land disturbance, and for construction support activities.

The CGP is administered by the Tennessee Department of Environment and Conservation (TDEC). Development owners or operators can obtain CGP coverage by filing a Notice of Intent (NOI) with TDEC prior to initiating construction activities. A Stormwater Pollution Prevention Plan (SWPPP) and applicable permit fees must be submitted with the NOI. Both the CGP and the Knox County Stormwater Management Ordinance require that development owners or operators obtain coverage under the CGP and provide proof of such coverage (in the form of a Notice of Coverage) prior to obtaining a grading permit from Knox County. Further, the CGP requires that the owner or operator also submit the CGP Notice of Termination (NOT) to TDEC and a copy to Knox County after construction activities are completed.

The CGP, along with the NOI, NOT and inspection documentation forms can be obtained from the local TDEC office, or on-line at: <http://www.state.tn.us/environment>.

3.2.2 Aquatic Resource Alteration Permit (ARAP)

Persons who conduct any activity that involves the alteration of waters of the State must obtain a State ARAP, and possibly a Federal Section 401 Certification. ARAPs and 401 Certifications are administered by TDEC. The Section 401 Certification is required for projects involving the discharge of dredged or fill material into waters of the United States (US), or wetlands. An ARAP is required for any alteration of State waters, including wetlands that do not require a federal permit. Examples of stream alteration activities that require an individual ARAP include:

- dredging, widening, straightening, or bank stabilization;
- levee construction if excavation or fill of a stream channel is involved;
- channel relocation;
- water withdrawals, diversions or dams;
- flooding, excavating, draining and/or filling a wetland; and,
- bridge construction.

Not every activity requires a separate, individual permit. TDEC issues general permits for specific stream alterations that cause minimum impact to water quality. Typically little or no paperwork is involved with these permits. Typically, the following activities are eligible for a general ARAP permit:

- construction of boat launching ramps;



- alteration of wet weather conveyances;
- construction of road crossings of waters;
- utility line crossings;
- bank stabilization;
- sand and gravel dredging;
- bridge scour repair;
- stream restoration and habitat enhancement; and,
- alteration of up to one acre of isolated wetlands.

3.2.3 Section 404 (Wetlands) Permit

Section 404 of the Clean Water Act establishes a program to regulate the discharge of dredged and fill material into waters of the United States, including wetlands. Activities in waters of the United States that are regulated under this program include fills for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports), and conversion of wetlands to uplands for farming and forestry. The US Army Corps of Engineers administers the 404 permit program. The program governs such activities on all surface waters, such as inland waters, lakes, rivers, streams and their tributaries; interstate waters and their tributaries; wetlands adjacent to the above (e.g., swamps, marshes, bogs, or other land areas); and isolated wetlands and lakes, intermittent streams, and other waters where degradation could affect interstate commerce. Section 404 permits (and possibly Section 10 permits) are required for stormwater activities that may impact natural wetlands.

3.2.4 26a Permits for Shoreline Construction

The Tennessee Valley Authority (TVA) administers a permit program that governs shoreline construction along, across, or in the Tennessee River or any of its tributaries. Thus, TVA's jurisdiction for the 26a permit extends to the limits of the Tennessee River watershed. In accordance with TVA requirements, the permit applied to construction in the 500-year floodplain or to the upper limits of TVA flowage rights, whichever is higher, for developments located along regulated rivers (tailwaters) and TVA reservoirs (e.g., Fort Loudoun Lake). Along off-reservoir, unregulated streams and rivers, jurisdiction is typically applied to the limits of the 100-year floodplain. More information on the TVA 26a permit can be found at <http://www.tva.gov>.

3.2.5 Section 9 and 10 Permits for Navigable Waters

Sections 9 and 10 of the Rivers and Harbors Act of 1899 address the construction of bridges and other potential modifications or alterations of navigable waters of the United States. A Section 9 permit is required for construction of a bridge or other structure spanning navigable waters of the United States, without fill or dredging. The United States Coast Guard, as a part of the Department of Homeland Security, administers Section 9 permits. Section 10 permits are issued for fill, dredging, and other alterations of navigable waters. Section 10 permits are administered by the United States Army Corps of Engineers.

3.2.6 Endangered Species Act

The Federal Endangered Species Act (ESA) of 1973 protects plants and animals that are listed by the government as "endangered" or "threatened". The ESA makes it unlawful for any landowner to harm an endangered animal, or to significantly modify an endangered animal's habitat. This applies to both public and private lands. More information on the Endangered Species Act can be gathered from the Tennessee Wildlife Resources Agency (<http://www.state.tn.us/twra>), or the United States Fish and Wildlife Service (www.fws.gov).