

3/3/2023

Minnesota Pollution Control Agency
c/o Todd Smith
520 Lafayette Road

Saint Paul, MN 55155

Re: Comments on the draft Minnesota Construction Stormwater General Permit

Dear Mr. Smith:

Thank you for reviewing comments on the draft Minnesota Construction Stormwater General Permit. As a consultant who supports industry, trains fellow Barr staff for the construction stormwater permit requirements, and promotes native and pollinator habitat plantings where it will work for both industry and the project, I try to make the regulations work for everyone. Not only does general permit language need to meet a broad range of projects, but it also needs to not be restrictive. There is an opportunity to both reduce regulatory burden without sacrificing environmental concerns and provide incentives for native and pollinator habitat plantings beneficial to game birds, songbirds, and pollinators. By reviewing existing general permit conditions and providing reasonable assurances in the Minnesota general permit text, I believe there is room to make some minor changes to the draft permit.

1 Comments on Reduced Inspections in the Minnesota Draft Construction Stormwater General Permit

Minnesota's Draft Construction Stormwater General Permit has the following language in Section 11.11d:

For projects consisting of ground mounted solar panels where a pollinator habitat or native prairie type vegetated cover is being established, inspections may be reduced to once per month if the site has temporary vegetation with a density of 70% temporary uniform cover. If after 24 months no significant erosion problems are observed, inspections may be suspended completely until the termination requirements in section 13 have been met.

This language does help reduce the burden to projects wishing to use native prairie or native habitat seed mixes, but still leaves an extra burden for projects as compared to planting simple turf grass, which has limited ecological benefit. The goal of final stabilization in the construction stormwater general permit is to ensure that construction areas no longer have erosion and there is no off-site sedimentation occurring. I propose changing the paragraph with the following additional language:

*For projects consisting of ground mounted solar panels where a pollinator habitat or native prairie type vegetated cover is being established, inspections may be reduced to once per month if the site has temporary vegetation with a density of 70% temporary uniform cover. If after 24 months no significant erosion problems are observed, inspections may be suspended completely until the termination requirements in section 13 have been met. **If the project is meeting the BWSR Minnesota Habitat Friendly Solar Program requirements, inspections may be suspended once the site has temporary vegetation with a density of 70% temporary uniform cover, no erosion is present in vegetated areas and***

(A) Landscaping that is part of the final project plan. This is considered stable when the plan has been fully implemented and areas not being vegetated are stable with a non-erosive material and/or product.

(B) Projects or specific stormwater measures that utilize native vegetation and/or special vegetative plantings that are either required by a water quality permit/authorization or part of the design and functionality of a stormwater measure provided the activity does not pose a threat that will result in off-site sedimentation.

(C)...

The language in Section 3.4.b(1)(B) of the Indiana general permit focuses on the exception for using native vegetation and the condition that there will not be off-site sedimentation. The Minnesota Habitat Friendly Solar Program is a voluntary program but would also line up for the requirement in the Indiana general permit for a water quality permit/authorization.

3 Exceptions in the EPA Construction Stormwater General Permit

EPA's General Permit has similar exceptions for arid, semi-arid, and drought-stricken areas⁵:

*(Section 2.2.14.c.iii) **Arid, semi-arid, and drought-stricken areas** (as defined in Appendix A). Final stabilization is met if the area has been seeded or planted to establish vegetation that provides 70 percent or more of the vegetative cover native to local undisturbed areas within three (3) years and, to the extent necessary to prevent erosion on the seeded or planted area, non-vegetative erosion controls have been applied to provide cover for at least three years without active maintenance.*

This exception lines up with an expected native vegetation establishment timeframe and the condition of maintenance-free erosion controls are being met with annual weed cover. The method of temporary erosion control is not important to the final outcome. The use of a long-life erosion control blanket would not increase the revegetation success of Minnesota native habitat and may block needed sunlight to the ground surface. While annual weeds might be a problem for turf grass establishment, they are a normal process for native prairie and native habitat establishment.

I encourage the MPCA to further reduce the cost burden of establishing native habitat beneficial to game birds, songbirds, and pollinators by reducing construction stormwater inspections further when sites have reached temporary stabilized conditions and evidence of seeded native plants are emerging.

Sincerely,

Jacob Thompson, PE

Senior Environmental Engineer

⁵ <https://www.epa.gov/system/files/documents/2022-01/2022-cgp-final-permit.pdf>



Photos showing solar site in Minnesota with annual weed cover (fully stabilized) and a close-up view of emerging native prairie vegetation in a localized bare area. Native grasses are currently emerging from drill seed lines.



Photos showing a second solar site. Emerging vegetation on the right are some Black-eyed Susan, which is an early growing flower common in native seed mixes.