

# O'NEILL & BORGES

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CLIENT BRIEFING  
May 16, 2008

## PROPOSED 2008 CONSTRUCTION GENERAL PERMIT

Today, the Environmental Protection Agency (EPA) published a notice of proposed permit issuance of the 2008 National Pollutant Discharge Elimination System Construction General Permit for stormwater discharges from construction activities (the "Proposed CGP"). The Proposed CGP will apply to dischargers that are not authorized under the 2003 Construction General Permit ("2003 CGP"), which include: a) dischargers engaged in new construction activities; and b) unpermitted ongoing projects. Existing dischargers who properly filed a notice of intent under the 2003 CGP will continue to be covered under the 2003 CGP, assuming there are no operator modifications.

The Proposed CGP will be valid for a period not to exceed two (2) years, and is the first step EPA is taking to issue a revised CGP after the scheduled expiration in July 1, 2008, of the 2003 CGP. After these two years, but not later than July 2010, EPA intends to adopt a new CGP incorporating effluent guidelines currently being developed by the Agency.

With this notice, EPA is also requesting comments on proposed criteria to incorporate "qualifying local program requirements" for erosion and sediment control, as provided for in EPA's regulations. Approved qualifying local program requirements can then be incorporated by reference into EPA's CGP. The purpose of this effort is to allow construction site operators with construction activities within the jurisdiction of the qualifying local program to follow local erosion and sediment control requirements, in lieu of complying with comparable erosion and sediment control requirements in EPA's CGP.

EPA will receive written comments to this notice until June 16, 2008. EPA has not yet scheduled public hearings concerning the proposed permit, but may do so if requested. If you need additional information on the foregoing proposed permit, wish to assess its potential impact on your operations, or want to draft and file comments, please contact any of the attorneys at the O'Neill & Borges Environmental Law and Litigation Practice Group.

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