

2008 Final EPA Construction General Permit

QUESTIONS & ANSWERS

1. What is the EPA Construction General Permit?

The EPA Construction General Permit (CGP) is a National Pollutant Discharge Elimination System (NPDES) permit issued under the authority of the Clean Water Act and associated regulations. EPA administers the NPDES permitting program in five states (MA, NH, NM, ID, AK), DC, most of the territories, and in most Indian Country Lands. This permit regulates the discharge of stormwater from construction sites that disturb 1 acre or more of land, and from smaller sites that are part of a larger, common plan of development. This permit requires operators of such construction sites to implement stormwater controls and develop stormwater pollution prevention plans (SWPPPs) to prevent sediment and other pollutants associated with construction sites from being discharged in stormwater runoff. Sediment is the most common cause of water quality problems in the nation's rivers and streams.

2. Why is EPA issuing the same Construction General Permit without substantial refinements or improvements?

The 2003 EPA CGP will expire on July 1, 2008. EPA recognizes that it should have a replacement permit in place at that time. EPA is issuing a two-year permit that uses substantially similar terms and conditions as EPA's 2003 CGP. This will enable coordination with a national regulation the Agency is currently developing for the construction and development industry.

This national regulation, called the Effluent Limitations Guideline for the Construction and Development Industry, is under development and will not be completed until after the current EPA CGP expires. Once finalized, NPDES permitting authorities (including EPA and 45 authorized states) will be required to incorporate the provisions of this Effluent Guideline in their Construction General Permits when they are next reissued. (NPDES permits are typically issued for five-year periods, which is the maximum allowed by law).

EPA is reissuing the CGP for a period of up to two years. Upon finalization of the Effluent Guideline, EPA will initiate the process for incorporating its provisions into a new and improved CGP and reissue that permit as soon as possible, but no later than July 2010.

3. Are there any changes in the final 2008 CGP?

EPA has kept the permit conditions from the 2003 CGP largely unchanged in the final 2008 CGP. However, the permit was reorganized so that it is clear what requirements are effluent limits, which are inspection requirements, and which are stormwater pollution

prevention plan (SWPPP) documentation requirements. These changes did not affect the bottom line requirements for construction sites. The other change was to limit who can be covered by the permit to new dischargers and any existing dischargers which had not previously obtained coverage under the 2003 CGP. Construction site operators covered under the 2003 CGP will continue to be covered under that permit until a future CGP is issued, which will incorporate the Construction and Development Effluent Guideline. EPA offers an electronic system to make obtaining permit coverage fast and easy. Construction site operators that are subject to this permit are encouraged to file a Notice of Intent form using EPA's eNOI system at www.epa.gov/npdes/eNOI

4. What will the Effluent Guideline for the construction and development industry contain?

EPA is in the process of developing a proposal that the Agency hopes to have available for public comment in July 2008. The Effluent Guideline will contain a range of provisions designed to address discharges of sediment (e.g., sediment and erosion controls) and discharges of other sources of pollutants commonly found at construction sites (e.g., good housekeeping practices). The proposed Effluent Guideline will be announced in the Federal Register and on EPA's website at www.epa.gov/waterscience

5. When will EPA implement the Qualifying Local Programs (QLP) concept in a CGP?

EPA is developing the process for implementing the QLP process at the present time and is considering the possibility of adding QLPs to this two-year CGP (through a modification to this permit). If the Agency decides to move forward with this option, the list of communities and associated permit language would be proposed in the Federal Register and made available for public comment.

6. Why are some areas not yet eligible for coverage under the 2008 CGP?

At this time, permit coverage under the 2008 CGP is not available for all areas previously covered by the 2003 CGP due to delays in the state certification process (CWA Section 401). Currently, permit coverage is not yet available for construction sites in New Hampshire, Puerto Rico, and several other areas. Please check Appendix B of the 2008 CGP for the list of areas eligible for coverage. The Agency will update this section as States and Tribes complete the certification process. Operators of "new" construction sites in these areas should comply with the 2003 CGP, including installing and maintaining stormwater controls at their site and developing a SWPPP in conformance with the 2003 CGP, until permit coverage is available under the 2008 CGP.