

Clean Water Act Requirements for Construction Projects in Indian Country



Who needs to apply for a permit?

- Property owners
- Developers
- General Contractors

responsible for
construction sites
disturbing
one or more
acres.



Now anyone can apply for coverage under the NPDES Construction General Permit Online! To find out more about the storm water program, or to get copies of the Construction General Permit, or the Notice of Intent application form, check out EPA's website at: www.epa.gov/npdes/stormwater/cgp.

Construction occurring in Indian Country is now subject to Clean Water Act (CWA) regulations. If you are going to do any construction which disturbs one acre of land or more, you may need to apply for a storm water discharge permit. If you are going to be constructing in waters, such as streams, washes, and wetlands, you may need to apply for a CWA 404 permit.

Why does EPA regulate storm water from construction sites? Too much sediment in the water can destroy aquatic habitat; prevent fish feeding, migration and spawning; interfere with recreation; and threaten drinking water supplies. Along with sediment, eroding soils also release nutrients which pollute waterways, causing algae blooms and low oxygen levels. Construction sites also have other sources of pollutants, such as oil and grease, and debris.

What is the NPDES Construction General Permit for Storm Water? Permits are issued under the National Pollutant Discharge Elimination System (NPDES). The NPDES Construction General Permit (CGP) outlines requirements that operators of construction sites must follow to reduce the impact of their activities on waters, such as streams, washes, and wetlands. The CGP was reissued on July 1, 2003 and is available at the CGP Web site: www.epa.gov/npdes/stormwater/cgp.

How do I apply for a permit? First, fill out a Notice of Intent (NOI) to comply with the Construction General Permit. The NOI may be submitted electronically, or a paper version can be mailed to EPA. The NOI forms are available at EPA's CGP Web site. Authorization to discharge storm water under the terms and conditions of the CGP permit occurs 7 calendar days after acknowledgment of receipt of the NOI is posted on EPA's CGP Web site.

Who signs the Notice of Intent form? A company officer or high ranking official must sign and certify the NOI form. For a federal or public agency, such as a Tribe, the certifying official is a principal executive officer or ranking elected official. The authority to sign can be delegated; see 40 CFR 122.22(b) for more on delegation.

If there are multiple operators at a site, who is responsible for permit compliance? All operators are responsible for permit compliance. The pollution prevention plan should clearly indicate how responsibilities are divided.

Your Pollution Prevention Plan: Before submitting the Notice of Intent (NOI), a Storm Water Pollution Prevention Plan must be prepared. In general, the plan identifies sources of pollutants at the project and prescribes best management practices to reduce the discharge of pollutants into waters, such as streams, washes, and wetlands. Then you must carry out the plan for the project or portions of the project for which you are responsible. The plan must be updated as conditions change.

What is the Erosivity Waiver? Waivers are available for small construction sites between 1 and 5 acres in size that are not part of a larger common plan exceeding 5 acres. A site may qualify for the waiver if the period of construction is short and occurs during a dry period of the year. Criteria for eligibility and instructions for the erosivity waiver are available at the Construction General Permit Web site.

Once construction is completed, what should I do? You must submit a Notice of Termination. The form is available on EPA's Construction General Permit website. You will need to certify that all affected areas have been adequately stabilized. Final stabilization means that a uniform perennial vegetative cover with a density of 70 percent of the native background vegetative cover has been established. For arid and semi-arid areas only, alternative stabilization practices can be applied; see the CGP for details. If the project is not complete, you need to certify that the responsibility for the site has been transferred to someone else.

Are Tribes exempt from storm water regulations? Projects owned or operated by Tribes were exempt from storm water permitting before March 10, 2003. The exemption no longer applies.

Is there anything else I need to know? If your construction project might disturb or alter riverbeds, washes, streams, wetlands, or other water bodies, you may be subject to additional requirements. Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act require approval before working in waters of the United States. Typical activities requiring Section 10 and 404 permits are:

- construction of piers, marinas, ramps, and cable or pipeline crossings;
- dredging and excavation in or adjacent to waters of the U.S.;
- fill for residential, commercial or recreational developments;
- construction of revetments, groins, breakwaters, levees, dams, dikes and weirs; and
- placement of riprap and road fills.

For more information about these requirements, contact the United States Army Corps of Engineers at www.usace.army.mil or EPA.

For information about the storm water program in EPA's Pacific Southwest Region (AZ, CA, NV, Pacific Islands, and Tribal lands), contact: Eugene Bromley, bromley.eugene@epa.gov, (415) 972-3510, or Andrew Sallach, sallach.andrew@epa.gov, (415) 972-3503.

Other information resources:

International Erosion Control Association: www.ieca.org

Construction Industry Compliance Assistance Center: www.cicacenter.org

Erosivity calculator: <http://ei.tamu.edu/index.html>

Notice: The statements in this document are intended solely to provide information to aid regulated entities in complying with the Clean Water Act storm water requirements. Reading this fact sheet is not a substitute for reading the Clean Water Act and its implementing regulations, including the CGP, and understanding all its requirements as they apply to your facility. Publication of this information does not constitute rulemaking by the EPA. This document reflects information available in EPA's NPDES General Permit for Storm Water Discharges from Large and Small Construction Activities.

Water Quality Best Management Practices (BMPs) at Construction Sites

Protect Natural Features, Minimize Exposure of Soil, and Scheduling

- Leave vegetation in place where possible and disturb the smallest area of land possible
- Control access to surface waters with fencing or buffer zones
- Divert runoff/runoff away from exposed areas
- Phase construction to minimize the amount of exposed soil at one time
- Schedule earthmoving in dry periods

Erosion Control: Also referred to as "soil stabilization"

- Temporary or permanent seeding and planting
- Mulching or cover using geotextiles, mats, and erosion control blankets

Sediment Control: slow, trap, retain sediment onsite

- Sediment basins and traps
- Silt fencing, berms, or Fiber rolls
- Construction entrances

Protect Ground Water

- Protect drinking water supply wellheads from construction activity and storm water by sloping, fencing, or berming
- If infiltration devices are used, do not excavate to or through the water table. Drywells and other infiltration devices are subject to Underground Injection Control regulations (see www.epa.gov/safewater/uic.html.)

Good Housekeeping

- Contain and cover litter, construction debris, and construction chemicals that could be exposed and spread by stormwater
- Dedicate covered contained areas for any activities involving toxic contaminants, or move such activities offsite

Inspections and Maintenance: Inspect the construction site regularly, and train staff and sub-contractors to recognize and discuss potential problems at the construction site so they can be prevented.

Post-Construction Storm Water Management

- Detention ponds, infiltration basins and trenches
- Pervious pavement, "green" parking and alternative pavers
- Grassed swales, grassed filter strip and buffer zones

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