

# Frequent Questions on EPA's Construction General Permit

The following is a compilation of frequent questions related to [EPA's Construction General Permit \(CGP\)](#) and the Agency's corresponding responses. These questions and answers have been updated for consistency with the [2022 CGP](#). EPA may update this document to add questions and answers to this document that are submitted by the public.

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## ABOUT EPA'S NPDES CONSTRUCTION STORMWATER PERMITTING PROGRAM

- What is the National Pollutant Discharge Elimination System (NPDES) program?
- What is the EPA CGP?
- Why is it important to minimize construction stormwater discharges?
- Do State-issued permits have to include requirements identical to the EPA CGP for stormwater discharges from construction activities?



## ACTIVITIES THAT CAN BE COVERED UNDER THE 2022 EPA CGP

- What types of construction activities must obtain NPDES permit coverage for their stormwater discharges?
- Are there situations where a permit is not needed?
- What if earth disturbance is a normal part of the post-construction use of the site?
- My project will have stormwater discharges from construction activities that will disturb less than one acre, but that may be part of a larger common plan of development or sale. How can I tell and what must I do?
- When can you consider future construction on a property to be part of a separate plan of development or sale?
- What if the extent of the common plan of development or sale is contingent on future activities?
- What if the common plan of development or sale consists of non-contiguous separate projects?
- Is NPDES permit coverage required for oil and gas construction?



## OBTAINING EPA CGP AUTHORIZATION

- Who is an "operator" under the EPA CGP and therefore responsible for obtaining permit coverage?
- What if I am required to obtain NPDES permit coverage and eligible for coverage under EPA's CGP, but fail to obtain permit coverage?
- What is a Notice of Intent (NOI)?
- What type of information must be submitted in an NOI?
- Who is responsible for submitting the NOI for EPA CGP coverage?
- What is my responsibility as an operator for subcontractors under EPA's CGP?
- If I want to obtain EPA CGP coverage, how many NOIs will I have to submit?
- My site's disturbances will occur in an area covered by EPA's CGP and in an area covered under a State-issued construction stormwater permit. Do I need coverage under both the EPA-issued CGP and the State-issued permit?
- Where are NOIs sent?
- What is the deadline for submitting an NOI for my construction activities and how long until permit coverage begins?
- Who should certify/sign the NOI?
- Who is authorized to sign the SWPPP, inspection reports, corrective action logs, turbidity monitoring reports, and other compliance documents?
- If the information on my submitted NOI changes, do I need to modify my NOI and, if so, how do I do that?
- If I need to modify an existing NOI, how does this affect my authorization for permit coverage?
- What if the operator(s) changes before the project is completed?



## EROSION AND SEDIMENT CONTROL REQUIREMENTS IN EPA'S CGP

- Do I have flexibility in preparing the Stormwater Pollution Prevention Plan (SWPPP) and selecting stormwater controls for my site?
- Will every operator have to have their own separate SWPPP or is a joint plan allowed?
- What are the buffer requirements in the EPA CGP and how do I determine my requirements?
- If there is no existing or limited natural vegetation in the 50-foot buffer area, do I need to comply with the buffer requirements?
- If I provide an undisturbed 50-foot, natural buffer consistent with CGP Part 2.2.1 (a) (i), are perimeter controls still required at the site?
- Is there any flexibility in applying the buffer requirements for small residential lots?
- Is there any flexibility in applying the buffer requirements to linear construction projects?
- Why will I have to obtain specific authorization to use cationic treatment chemicals under EPA's CGP?
- What are the stabilization deadline requirements in the EPA CGP?
- How can I determine if my project is in an area experiencing drought?
- What does the permit mean by an area's "seasonally dry period" and why is this important?
- What does it mean to limit disturbances at any one time to 5 acres or less?
- Will the stabilization deadline for my site change if disturbances exceed 5 acres?
- What are the requirements for impaired and high quality waters in the EPA's CGP?
- What does it mean for a waterbody to be impaired for a "sediment-related parameter"?
- What is expected regarding inspections if a storm event happens outside a project's normal business hours?
- Are there situations when infiltration should not be used at a site?
- Are there situations where stormwater controls for storm inlets are not required?
- Are there erosion controls that can be implemented that are more "wildlife friendly" than others?
- What does it take to be considered a "qualified person" for inspections?
- Can I electronically prepare and sign the SWPPP, inspection reports, corrective action reports, and any other compliance documents and maintain them as electronic records?
- When am I supposed to begin conducting inspections at my site?



## DEWATERING REQUIREMENTS IN EPA'S CGP

- What new controls are required for the discharge of dewatering water?
- Are sites required to eliminate turbidity?
- What is the inspection frequency for sites while they are dewatering?
- Why did EPA increase the inspection frequency in the 2022 CGP for sites while they are dewatering?
- What are the new CGP requirements for dewatering inspections?
- What is the purpose of benchmark turbidity monitoring?
- Who must conduct turbidity monitoring?
- Where is monitoring required?
- How do I monitor for turbidity?
- What happens if I exceed the turbidity benchmark?
- Do I have to submit turbidity data to EPA?



## POLLUTION PREVENTION REQUIREMENTS IN EPA'S CGP

- How have the EPA CGP requirements changed for storage and handling of diesel fuel, oil, hydraulic fluids, other petroleum products, and other chemicals at construction sites?
- How have the EPA CGP pollution prevention requirements changed for construction and domestic wastes?



## INSPECTIONS, ROUTINE MAINTENANCE, AND CORRECTIVE ACTIONS IN EPA'S CGP

- What non-EPA training programs can I take to ensure I am a "qualified person" to conduct inspections?
- What happens if I've taken training already, but a required topic was not taught in that training?
- What are the training requirements for inspectors?
- What is the difference between routine maintenance and corrective actions in the EPA CGP?
- When are inspections required for rainfall? How is it different from when it snows?
- What happens if there is a storm that continues for multiple days, or that stops and starts multiple times during a day or over multiple days?



## TERMINATING COVERAGE UNDER EPA'S CGP

- How have the requirements for terminating coverage under the EPA CGP changed?
- If an operator has permit coverage as part of a larger common plan of development or sale, can an NOT be filed once the project is complete?
- What are my options for meeting the "final stabilization" criteria?



## ABOUT EPA'S NPDES CONSTRUCTION STORMWATER PERMITTING PROGRAM

- **What is the National Pollutant Discharge Elimination System (NPDES) program?**

The NPDES program is a Federal permitting program established under the Clean Water Act (CWA) that reduces pollutants by requiring controls for point source discharges of pollutants to waters of the United States (referred to as "receiving waters"). Point sources are generally defined as discernible, confined, and discrete conveyances including but not limited to any pipe, ditch, channel, or conduit from which pollutants are or may be discharged. See CWA section 502 and 40 CFR 122.2 for complete definitions of point source. Certain stormwater discharges are covered under the NPDES program. For example, discharges from construction activities that disturb one or more acres, and discharges from smaller sites that are part of a larger common plan of development or sale that disturb one or more acres, are regulated under the NPDES program.

- **What is the EPA CGP?**

The EPA CGP is an NPDES permit issued under the authority of the CWA and associated regulations that regulates stormwater discharges from construction activities in those areas where EPA is the NPDES permitting authority. The CGP authorizes the discharge of stormwater (and certain authorized non-stormwater discharges) from construction sites that disturb one acre or more of land, and from smaller sites that are part of a larger, common plan of development that together disturb one or more acres. This permit requires operators of such construction sites to implement stormwater controls and develop a Stormwater Pollution Prevention Plan (SWPPP) to minimize the amount of sediment and other pollutants associated with construction sites from being discharged in stormwater. The CGP is required to include conditions that comply with the Federal Effluent Limitations Guidelines (ELGs) for the construction and development point source category. See 40 CFR 450.

- **Why is it important to minimize construction stormwater discharges?**

As stormwater flows over a construction site, it can pick up sediment, debris, and chemicals, and transport them to receiving waters. Stormwater discharges containing pollutants can cause an array of physical, chemical, and biological impacts on receiving waters. In addition to sediment and turbidity, a number of other pollutants like metals, organic compounds, trash, and nutrients associated with construction sites may end up being discharged to nearby waters. If uncontrolled, the pollutants in these stormwater discharges can harm plants and animals in the receiving water, increase the costs to treat any drinking water sources, and impair the aesthetic value and use of the waterway.

Sediment can also accumulate in rivers, lakes, and reservoirs, making dredging or other solutions necessary to improve water storage or navigation capacity. The CGP requires eligible construction operators to minimize erosion, sediment, and other construction-related stormwater pollutants.

- **Do State-issued permits have to include requirements identical to the EPA CGP for stormwater discharges from construction activities?**

No, States are not required to use the requirements in EPA's CGP, although some have chosen to use the same or similar permit conditions as are included in the CGP. State-issued permits must meet their obligations under the CWA. Nothing in the Act precludes a State from adopting or enforcing requirements that may be more appropriate to address discharges in their State or are more stringent or extensive than those required under NPDES regulations.

Whether EPA, a State or a Tribe issues the permit, the CWA and EPA regulations require NPDES permits to include requirements that implement the technology-based effluent limitations for the construction and development industry at 40 CFR part 450. In addition, where the discharge has the reasonable potential to cause or contribute to an exceedance of water quality standards, permits must contain water quality-based effluent limitations as necessary to meet those standards.



#### ACTIVITIES THAT CAN BE COVERED UNDER EPA'S CGP

- **What types of construction activities must obtain NPDES permit coverage for their stormwater discharges?**

In general, any "construction activity" that will disturb one or more acres of land and discharges stormwater to waters of the U.S. must obtain NPDES permit coverage. This disturbance includes those construction activities that are part of a common plan of development or sale that will cumulatively disturb one or more acres of land and discharge stormwater to waters of the U.S. Note that there are situations in which construction activities can be waived from the requirement to obtain NPDES permit coverage (see related Q&A entitled "Are there situations where a permit is not needed" for more information). "Construction activities," as defined in [CGP Appendix A](#), includes earth-disturbing activities, such as the clearing, grading, and excavation of land, and other construction-related activities (e.g., grubbing, stockpiling of dredged or fill materials; placement of raw materials at the site) that could lead to the generation of pollutants. Also authorized under the CGP are discharges of stormwater from "construction support activities," which include construction-related activities that specifically support the construction activity and involve earth disturbance or pollutant-generating activities of their own (e.g., activities associated with concrete or asphalt batch plants, equipment staging yards, materials storage areas, excavated material disposal areas, borrow areas).

The definition for "construction activity" does not refer to activities such as interior remodeling, completion of interiors of structures, etc. "Construction activity" also does not include routine earth disturbing activities that are part of the normal day-to-day operation of a completed facility (e.g., daily cover for landfills, maintenance of gravel roads or parking areas, landscape maintenance) nor activities under a State or Federal reclamation program to return an abandoned facility property to an agricultural or open land use (as opposed to demolition of something in order to build something new).

- **Are there situations where a permit is not needed?**

EPA's stormwater regulations allow NPDES permitting authorities to waive NPDES permitting requirements for stormwater discharges from small construction sites for qualifying operators in three different waiver scenarios. These scenarios include waivers for: (1) low rainfall erosivity, (2) a total maximum daily load (TMDL) analysis, and (3) an equivalent analysis. Each operator, otherwise needing permit coverage, must notify EPA of its intention for a waiver. It is the responsibility of those individuals wishing to obtain a waiver from coverage under this general permit to submit a complete and accurate waiver certification as described [Appendix C](#) of the CGP. Where the operator changes or another is added during the construction project, the new operator must also submit a waiver certification to be waived.

The most commonly applied waiver is the one for low rainfall erosivity. If the construction site disturbs less than five acres, and the rainfall erosivity factor ("R" in the revised universal soil loss equation, or RUSLE) value is less than five during the period of construction activity, the operator would qualify for the low erosivity waiver or "LEW." See the [Rainfall Low Erosivity Waiver Calculator](#) to determine your R factor. If you are eligible and EPA is your permitting authority, then you may submit a [Low Erosivity Waiver](#) to EPA.

Additionally, if all of the stormwater from the construction activity is captured on-site and allowed to evaporate, soak into the ground on-site, or is used for irrigation (i.e., not discharged to a receiving water), you do not need a permit. Under the CWA, it is illegal to have a point source discharge of pollutants to a receiving water that is not authorized by the CWA. If you believe there is a potential for a discharge, EPA recommends that you obtain permit coverage before any discharge occurs. The controls that you use to keep the stormwater on your site so that it does not reach a receiving water must be effective under any size storm. You may also have an obligation to the relevant State/Tribe concerning discharges to ground water or impoundment of runoff (e.g., water rights).

- **What if earth disturbance is a normal part of the post-construction use of the site?**

The earth-disturbing activity has to be part of a project to build, demolish, or replace a structure (e.g., building, road, pad, pipeline, transmission line) to trigger the need for permit coverage. Earth disturbance that is a normal part of the long-term use or maintenance of the property is not "active construction" and does not trigger the need for NPDES coverage under 40 CFR 122.26(b)(14)(x) or (15)(i). For example, re-grading a dirt road without clearing, grading, or excavating new areas of underlying or surrounding soil or cleaning out a roadside drainage ditch to maintain its "as built" state is road maintenance and not construction. Restoring the original well pad to work over an existing oil or gas well is operation of a well and not construction. Re-grading and re-graveling a gravel parking lot or equipment pad without clearing, grading, or excavating new areas of underlying or surrounding soil is site maintenance and not construction. Repaving is routine maintenance unless underlying and/or surrounding soil is cleared, graded, or excavated as part of the repaving operation. Where clearing, grading, or excavating (i.e., down to bare soils) takes place, permit coverage is required if at least one acre (separately or as part of a larger plan of development) is disturbed. Reworking planters that are part of the landscaping at a building is landscape maintenance and not construction. Applying daily cover at a landfill is simply part of operating a landfill and not construction.

- **My project will have stormwater discharges from construction activities that will disturb less than one acre, but that may be part of a larger common plan of development or sale. How can I tell and what must I do?**

In many cases, a common plan of development or sale (as defined in [CGP Appendix A](#)) consists of many small construction projects. For example, an original common plan of development for a residential subdivision might lay out the streets, house lots, and areas for parks, schools and commercial development that the developer plans to build or sell to others for development. All these areas would remain part of the common plan of development or sale.

If your smaller project is part of a larger common plan of development or sale that collectively will disturb one or more acres (e.g., you are building on 6 half-acre residential lots in a 10-acre development or are putting in a fast food restaurant on a 3/4-acre pad that is part of a 20-acre retail center) then you need permit coverage. The "common plan" of development or sale is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. You must still meet the definition of operator in order to be required to get permit coverage, regardless of the acreage you personally disturb. If you are a subcontractor, it is unlikely you would need a permit because you probably do not meet the definition of an operator.

However, where only a small portion of the original common plan of development remains undeveloped and there has been a period of time where there are no ongoing construction activities (i.e., all areas are either undisturbed or have undergone final stabilization), you can re-evaluate your individual project based on the acreage remaining from the original common plan. If less than five but more than one acre remains to build out the original common plan, then a permit might still be required, but you can treat your project as part of a "small" construction activity and it might be eligible for the waivers available for small construction activities (e.g., one of six lots totaling 2 acres in a 50-acre subdivision can be treated as part of a 2-acre rather than 50-acre common plan). If less than one acre remains of the original common plan, your individual project could be treated as part of a less than one-acre development and no permit would be required. Note though that some local requirements may still apply.

- **When can you consider future construction on a property to be part of a separate plan of development or sale?**

After the initial common plan construction activity is completed for a particular parcel, any subsequent development or redevelopment of that parcel would be regarded as a new common plan of development. For example, after a house is built and occupied, any future construction on that lot like reconstructing after fire, adding a pool or parking area, would stand alone as a new common plan for purposes of calculating acreage disturbed to determine if a permit is required. This would also apply to similar situations at an industrial facility, such as adding new buildings, a pipeline, or new wastewater treatment facility that was not part of the original plan.

- **What if the extent of the common plan of development or sale is contingent on future activities?**

EPA recognizes that there are situations where you will not know up front exactly how many acres will be disturbed, or whether some activities will even occur. If you are not sure exactly how many acres will be disturbed, you should make the best estimate possible and might wish to overestimate to ensure you do not run into the situation where you should have permit coverage, but do not have it. For example, if you originally estimated less than 5 acres would actually be disturbed and took advantage of the low erosivity waiver, but you actually disturbed 5.5 acres, you would no longer qualify for a waiver and may have to go through the permit process mid-project. This could result in delays in obtaining permit authorization and costs associated with contract changes to implement permit requirements - in addition to being liable for any unpermitted discharges.

If you have a long-range master plan of development where some portions of the master plan are a conceptual rather than a specific plan of future development and the future construction activities would, if they occur at all, happen over an extended time period, you could consider the "conceptual" phases of development to be separate common plans provided the periods of construction for the physically interconnected phases will not overlap. For example, a university or an airport may have a long-range development concept for their property, with future development based largely on future needs and availability of funding. A school district could buy more land than needed for a high school with an indefinite plan to add more classrooms and a sports facility someday.

- **What if the common plan of development or sale consists of non-contiguous separate projects?**

There are several situations where discrete projects that could conceivably be considered part of a larger common plan can actually be treated as separate projects for the purposes of permitting:

- i. A public body (e.g., a municipality, State, Tribe, or Federal agency) need not consider all their construction projects within their entire jurisdiction to be part of an overall common plan. For example, construction of roads or buildings in different parts of a State, city, military base, university campus, etc. can be considered as separate common plans. Only the interconnected parts of a single project would be considered to be a common plan (e.g., a building and its associated parking lot and driveways, airport runway and associated taxiways, a building complex).
- ii. Where discrete construction projects within a larger common plan of development or sale are located at least 1/4 mile apart and the area between the projects is not being disturbed, each individual project can be treated as a separate plan of development or sale provided any interconnecting road, pipeline or utility project that is part of the same common plan is not concurrently being disturbed. For example, if a utility company was constructing new trunk lines off an existing transmission line to serve separate residential subdivisions located more than 1/4 mile apart, the two trunk line projects could be considered to be separate projects.

- **Is NPDES permit coverage required for oil and gas construction?**

CWA section 402(l)(2) provides that EPA shall not require, nor force a State to require an NPDES permit for discharges of stormwater runoff from oil and gas exploration, production, processing or treatment operations, or transmission facilities, composed entirely of flows that are from conveyances or systems of conveyances used for collecting and conveying precipitation runoff, and that are not “contaminated by contact with any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations.” This exemption applies to both construction and industrial facilities and activities associated with oil and gas exploration, production, processing or treatment operations, or transmission facilities. These facilities and activities fall within the following North American Industrial Classification System (NAICS) codes and titles:

- 211—Oil and Gas Extraction,
- 213111—Drilling Oil and Gas Wells,
- 213112—Support Activities for Oil and Gas Operations,
- 48611—Pipeline Transportation of Crude Oil and
- 48621—Pipeline Transportation of Natural Gas.

EPA’s [Oil and Gas Stormwater Permitting webpage](#) includes a non-exhaustive list of exempt and non-exempt facilities and activities (see section titled “Types of Oil and Gas Activities and Facilities that are Either Exempt or Non-Exempt from Stormwater Permitting”).

Under CWA section 402(l), its implementing regulations, and applicable court decisions, the permitting exemption for an oil or gas operation is not available and the operator must obtain coverage under an NPDES permit covering stormwater discharges from construction (for at least one acre of land disturbance and less than one acre if part of a common plan of development/sale) and/or an NPDES permit covering stormwater discharges from industrial activities. See 40 CFR 122.26(c)(1)(iii). These circumstances are tied to the “contaminated by contact with, or do not come into contact with” threshold for permitting. The trigger for stormwater from an oil or gas operation needing NPDES permit coverage is a discharge of stormwater that:

1. Results in the discharge of a “reportable quantity” (RQ) for which notification is or was required under 40 CFR 117.21 or 40 CFR 302.6 at any time since Nov 16, 1987; or
2. Results in the discharge of a RQ for which notification is or was required under 40 CFR 110.6 at any time since Nov 16, 1987; or
3. Contributes to a violation (that is to say, an exceedance) of a water quality standard.

For more information about the potential need for permitting of oil and gas construction activities, see the [Oil and Gas Stormwater Permitting webpage](#).



## OBTAINING EPA CGP AUTHORIZATION

### • Who is an “operator” under the EPA CGP and therefore responsible for obtaining permit coverage?

Operators requiring permit coverage include any party associated with a construction activity that meets either of the following two criteria:

- i. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (e.g., in most cases this is the owner of the site); or
- ii. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the permit; in most cases this is the general contractor (as defined in [CGP Appendix A](#)) of the project).

Where there are multiple operators associated with the same project, all operators must obtain permit coverage. Subcontractors generally are not considered operators for the purposes of this permit.

EPA emphasizes that it is the party's operational control over the construction project that is determinative of whether they are considered an “operator” under the permit. In many cases, there will be two separate parties that have the necessary operational control over the project, and they will fall fairly distinctly into either one of the two types of parties described in the definition in Parts 1.1.1.a and 1.1.1.1.b. In other cases, there will be one party that exercises both types of operational control over the project. EPA frequently finds that parties with the type of operational control over specific projects within the permit's meaning of operator are involved in one or more of the following activities:

- Authorizing development/construction activities;
- Procuring project plans and specifications;
- Approving/disapproving project plans and specifications;
- Approving/disapproving project bids;
- Approving/disapproving SWPPPs, and SWPPP modifications;
- Issuing cease and desist orders of construction activities regardless if completed;
- Carrying out or managing construction work on the project site that causes earth disturbance.

This is not a comprehensive list of activities, and EPA acknowledges that there are likely other similar decision-making activities not listed here that would be indicative of project-specific operational control.

### • What if I am required to obtain NPDES permit coverage and eligible for coverage under EPA's CGP, but fail to obtain permit coverage?

If an operator does not submit a Notice of Intent (NOI) or any individual permit application for its stormwater discharges from an active construction site, then the resulting discharges constitute unpermitted discharges in violation of the CWA.

- **What is a Notice of Intent (NOI)?**

EPA's CGP relies on the submission of an electronic document called a Notice of Intent (NOI) to gain coverage under the permit. An NOI for a general permit is notice to the NPDES permitting authority (EPA in this instance) of the operator's intent to be covered under the general permit and its certification that it is eligible for coverage and that the information is provided is true, accurate, and complete. An NOI typically contains basic information about the site and the proposed discharge. By signing and submitting the NOI, the operator is certifying that the information submitted is true, accurate, and complete, that the operator meets the eligibility requirements, and that, if and when covered, the operator will comply with the permit conditions and effluent limitations. A fraudulent or erroneous NOI invalidates permit coverage. An incomplete NOI delays permit coverage until such time as the NOI has been completed and the applicable waiting period has passed (i.e., 14 days for operators of new projects for the EPA CGP).

- **What type of information must be submitted in an NOI?**

Operators must provide the following types of information in their NOI for coverage under EPA's CGP:

- i. NPDES permit information;
- ii. Operator information;
- iii. Project/site information;
- iv. Discharge information;
- v. Chemical treatment information, if applicable;
- vi. SWPPP and Personnel Training information;
- vii. Endangered species protection information;
- viii. Historic preservation information;
- ix. Certification of NOI; and
- x. Contact information for NOI preparer.

A copy of the NOI is included as [CGP Appendix H](#).

- **Who is responsible for submitting the NOI for EPA CGP coverage?**

Any operator of an eligible site that must obtain permit coverage must submit an NOI to be covered under the CGP. The party that meets the first part of the definition of "operator" in most cases will be the owner of the site (i.e., the party that has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications). The party that meets the second part of the definition of "operator" in most cases will be the general contractor of the project (i.e., the party that has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions). Where there are multiple operators associated with the same project, all parties meeting the definition of "operator" must submit an NOI to be covered under the EPA CGP if such coverage is sought.

Additionally, you are probably not an operator, and therefore are not responsible for submitting an NOI to be covered under the EPA CGP, if:

- i. You are a subcontractor hired by, and under the supervision of, the owner or a general contractor (i.e., if the general contractor directs your activities on-site); or
- ii. You are a utility service line installer whose activities on-site result in an earth disturbance, but you are not legally a subcontractor or an operator, and there is another entity with permit coverage for the project and they have a SWPPP that specifically identifies someone other than you (or your subcontractor) as the party having responsibility for addressing the impacts your activities might have on stormwater quality.

- **What is my responsibility as an operator for subcontractors under EPA's CGP?**

Operators covered by the permit must ensure that all activities on the site comply with the requirements of the permit. Operators are not required to provide or document formal training for subcontractors or other outside service providers unless the subcontractors or outside service providers are responsible for conducting the inspections required in CGP Part 4, in which case the operator must provide such documentation consistent with CGP Part 7.2.2. That said, operators must ensure that such personnel understand any requirements of the permit that may be affected by the work they are subcontracted to perform. See CGP Part 6.

- **If I want to obtain EPA CGP coverage, how many NOIs will I have to submit?**

Each operator for a site must submit one NOI to cover the areas of the site that are under his/her control. For example, if you are building homes on multiple lots as part of a larger residential subdivision development, you can submit one NOI to cover all of your lots, even if they are on opposite sides of the development.

- **My site's disturbances will occur in an area covered by EPA's CGP and in an area covered under a State-issued construction stormwater permit. Do I need coverage under both the EPA-issued CGP and the State-issued permit?**

There may be instances where your site will disturb one or more acres of land and discharge stormwater but only a portion of the project occurs in an area where EPA is the NPDES permitting authority. In this case, you would need coverage under an EPA-issued construction stormwater permit (e.g., the CGP), and likely would need coverage from the NPDES permitting authority(ies) like a State or Tribe that have jurisdiction over the other portions of the project.

For example, let's consider a project that has contiguous disturbances or disturbances that are part of a common plan of development or sale that occur both in the State of New Mexico and the State of Arizona. Let's also assume this project will disturb an acre or more of land and will result in the discharge of pollutants through stormwater in both States. In this example, the operator of the project would need coverage under an EPA-issued stormwater permit (e.g., the CGP) for the disturbances in New Mexico and, if required by the State of Arizona, an Arizona-issued stormwater permit (even if the portion of the project in EPA's jurisdiction is less than an acre).

- **Where are NOIs sent?**

Operators must use [EPA's NPDES eReporting Tool \(NeT\)](#) to electronically prepare and submit NOIs for coverage under the CGP, unless they receive a waiver from your EPA

Regional Office. Trainings, user guides, and other information can be found on [EPA's website](#).

There are two conditions where an EPA Regional Office may grant a waiver from electronic reporting:

- i. If your operational headquarters is physically located in a geographic area (i.e., ZIP code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission; or
- ii. If you have limitations regarding available computer access or computer capability.

If you wish to obtain a waiver from submitting a report electronically, you must submit a request to the EPA Regional Office. In that request, you must document which exemption you meet, provide evidence supporting any claims, and a copy of your completed NOI form. A waiver may only be considered granted once you receive written confirmation from EPA. If the EPA Regional Office gives you approval to use a paper NOI, and you elect to use it, you must complete the form in [CGP Appendix H](#). You must also look in CGP Part 9 to determine if copies of the NOI form must be sent to a State or Indian Tribe.

- **What is the deadline for submitting an NOI for my construction activities and how long until permit coverage begins?**

The table below (from CGP Part 1.4.3, Table 1) provides the deadlines for submitting your NOI and the official start date of your permit coverage, which differ depending on when you commence construction activities.

Type of Operator	NOI Submittal Deadline <sup>1</sup>	Permit Authorization Date <sup>2</sup>
<b>Operator of a new site</b> (i.e., a site where construction activities commence on or after February 17, 2022)	At least 14 calendar days before commencing construction activities.	14 calendar days after EPA notifies you that it has received a complete NOI, unless EPA notifies you that your authorization is delayed or denied.
<b>Operator of an existing site</b> (i.e., a site with 2017 CGP coverage where construction activities commenced prior to February 17, 2022)	No later than May 18, 2022.	14 calendar days after EPA notifies you that it has received a complete NOI, unless EPA notifies you that your authorization is delayed or denied.  Provided you submit your NOI no later than May 18, 2022, your authorization under the 2017 CGP is automatically continued until you have been granted coverage under this permit or an alternative NPDES permit, or coverage is otherwise terminated.
<b>New operator of a permitted site</b> (i.e., an operator that through transfer of ownership and/or operation replaces the operator of an already permitted construction site that is either a "new site" or an "existing site")	At least 14 calendar days before the date the transfer to the new operator will take place.	14 calendar days after EPA notifies you that it has received a complete NOI, unless EPA notifies you that your authorization is delayed or denied.
<b>Operator of an "emergency-related project"</b> (i.e., a project initiated in response to a public emergency (e.g., mud slides, earthquake, extreme flooding conditions, disruption in essential public services), for which the related work requires immediate authorization to avoid imminent endangerment to human health or the environment, or to reestablish essential public services)	No later than 30 calendar days after commencing construction activities.	You are considered provisionally covered under the terms and conditions of this permit immediately, and fully covered 14 calendar days after EPA notifies you that it has received a complete NOI, unless EPA notifies you that your authorization is delayed or denied.

<sup>1</sup> If you miss the deadline to submit your NOI, any and all discharges from your construction activities will continue to be unauthorized under the CWA until they are covered by this or a different NPDES permit. EPA may take enforcement action for any unpermitted discharges that occur between the commencement of construction activities and discharge authorization.

<sup>2</sup> Discharges are not authorized if your NOI is incomplete or inaccurate or if you are not eligible for permit coverage.

- **Who should certify/sign the NOI?**

The certifier of the NOI for the EPA CGP (i.e., the person who must sign the NOI form before it is submitted to EPA) must, in accordance with 40 CFR 122.22, be one of the following:

- i. For a corporation: A responsible corporate officer, which means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- ii. For a partnership or sole proprietorship: A general partner or the proprietor, respectively.
- iii. For a municipality, State, Federal, or other public agency: By either a principal executive officer or ranking elected official. A principal executive officer of a Federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Note that the certifier cannot use an authorized representative to certify the EPA CGP NOI form.

- **Who is authorized to sign the SWPPP, inspection reports, corrective action logs, turbidity monitoring reports, and other compliance documents?**

SWPPPs, corrective action logs, turbidity monitoring reports, and other permit documents can be signed by the person authorized to sign/certify the NOI (see Q&A above), or by a "duly authorized representative" of the person authorized to sign/certify the NOI, pursuant to 40 CFR 122.22(b) and Appendix G, Section G.11.2 of the EPA CGP. A duly authorized representative may only sign these documents if:

- i. The authorization is made in writing by a person described in Appendix G, Subsection G.11.1;
- ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and
- iii. The signed and dated written authorization is included in the SWPPP. A copy will be required to be submitted to EPA, if requested.

The duly authorized representative cannot be a subcontractor or third party. The subcontractor or third party may develop the SWPPP, and may conduct inspections and corrective actions and complete reports, but the actual signature must be made by the NOI signer/certifier or a duly authorized representative of a person authorized to sign/certify the NOI.

- **If the information on my submitted NOI changes, do I need to modify my NOI and, if so, how do I do that?**

Yes, you must update your NOI when information on your current NOI has changed. To modify an NOI, you may submit a "Change NOI" form using [EPA's NPDES eReporting Tool \(NeT\)](#). If an EPA Regional Office grants you a waiver from electronic reporting, then you may submit a paper NOI modification by indicating any NOI changes on the same NOI form in [CGP Appendix H](#).

When there is a change to the site's operator, a new NOI must be submitted by the new operator, and the previous operator must submit a Notice of Termination (NOT) form as specified in Part 8.3.

- **If I need to modify an existing NOI, how does this affect my authorization for permit coverage?**

CGP Part 1.4.4 provides a list of the changes to the Notice of Intent (NOI) that will result in a separate 14-day review period. These changes include the following:

- Changes to the name of the operator;
- Changes to the project or site name;
- Changes to the estimated area to be disturbed;
- Changes to the name of the receiving water<sup>3</sup>, or additions to the applicable receiving waters;
- Changes to eligibility information related to endangered species protection or historic preservation;
- Changes to information provided related to the use of chemical treatment at your site; and
- Changes to answers provided regarding the demolition of structures over 10,000 square feet of floor space built or renovated before January 1, 1980.

During the 14-day review process, the operator may continue to operate based on the information provided in your original NOI, but the operator must wait until the review period ends before commencing or continuing activities on any portion of the site that would be affected by any of the above modifications, unless EPA notifies the operator that the authorization is delayed or denied.

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<sup>3</sup> As defined in Appendix A, a "receiving water" is "a "Water of the United States" as defined in 40 CFR §122.2 into which the regulated stormwater discharges."

- **What if the operator(s) changes before the project is completed?**

If operational control changes, the old operator must submit an NOI and the new operator must submit an NOI before taking over operational control. In many instances, operational control changes, but only for a portion of the site. In these instances, the new operator must:

- i. submit an NOI because their site is part of a larger common plan; and
- ii. develop their own SWPPP or adopt the SWPPP of the previous owner if it's still applicable (revisions are likely to be necessary to update the explanations of the operators and stormwater controls - controls that were designed for site grading and utility installation for the overall project (e.g., perimeter controls) may not be adequate for the single "big box" or home site.)



## EROSION AND SEDIMENT CONTROL REQUIREMENTS IN THE 2022 EPA CGP

- **Do I have flexibility in preparing the Stormwater Pollution Prevention Plan (SWPPP) and selecting stormwater controls for my site?**

Yes. EPA's permit and SWPPP requirements provide considerable flexibility to the operator to select any needed stormwater controls based on the specifics of the site, provided they meet the minimum requirements established in CGP Part 2. Some of the factors you might consider include: more stringent local development requirements and/or building codes; precipitation patterns for the area at the time the project will be underway; soil types; slopes; layout of structures for the site; sensitivity of receiving waters; safety concerns of the stormwater controls; and coordination with other site operators.

The approach and controls used for minimizing pollutants in stormwater discharges from small construction sites may vary from those used for large sites since their characteristics can differ in many ways. Operators of small sites may have more limited access to qualified design personnel and technical information. Sites may also have less space for installing and maintaining certain controls. A number of structural controls (mulching, use of inlet protection, or silt fence) and non-structural controls (minimizing disturbance, good housekeeping) have been shown to be efficient, cost effective, and versatile for small construction site operators to implement. As is the case with large construction sites, erosion and sediment control at small construction sites is best accomplished with proper planning, installation, and maintenance of controls.

For eligible small residential lot projects, EPA encourages operators to use the Small Residential Lot SWPPP template, which provides a streamlined template for developing the required SWPPP. For information see EPA's [Small Residential Lot SWPPP Template](#) and [small lot brochure](#).

- **Will every operator have to have their own separate SWPPP or is a joint plan allowed?**

The only requirement is that there be at least one SWPPP for a site that incorporates the required elements for all operators, but there can be separate plans if individual operators so desire. EPA encourages operators to explore possible cost savings by having a joint SWPPP for several operators.

For instance, if both the owner and the general contractor of the construction site meet the definition of an operator and must obtain NPDES permit coverage, either party could develop a group SWPPP that applies to both parties, as long as the SWPPP addresses both parties' permit-related functions. Another example is where there are multiple operators associated with the same site through a common plan of development or sale (such as a housing development) at which a shared control exists. In this scenario, the operators may develop a group SWPPP instead of multiple individual SWPPPs, and clearly identify responsibilities that each operator will perform for various permit-related functions, including those related to the installation and maintenance of the shared control.

Regardless of whether there is a group SWPPP or multiple individual SWPPPs, all operators are legally responsible for compliance with the permit. So, if Operator A relies on Operator B to satisfy any part of its permit obligations, Operator A does not have to duplicate implementation of those permit-related functions if Operator B is implementing them such that both operators are in compliance with the permit. However, Operator A remains responsible for permit compliance if Operator B fails to take actions that were necessary for Operator A to comply with the permit. In addition, all operators must ensure, either directly or through coordination with other operators, that their activities do not cause a permit violation or compromise any other operators' controls and/or any shared controls.

- **What are the buffer requirements in the EPA CGP and how do I determine my requirements?**

The C&D rule includes a non-numeric effluent limitation to “provide and maintain natural buffers, unless infeasible.” See 40 CFR 450.21 (a)(6). However, it does not specify what size buffer is necessary to meet the requirement, but rather leaves this and other related determinations up to the NPDES permitting authority. The 2022 CGP maintains the specificity related to the buffer requirement that was added in both the 2017 CGP and 2012 CGPs to ensure consistent implementation where EPA is the permitting authority.

To provide maximum flexibility for operators, EPA developed buffer compliance alternatives in the CGP. One compliance alternative allows operators to provide a minimum undisturbed natural buffer width of at least 50 feet between the site's disturbances and any receiving waters occurring within 50 feet of the construction site. Alternatively, the operator can choose to establish a smaller buffer or no buffer, if establishing a 50-foot or any buffer is infeasible, as long as other controls are implemented that ensure that the equivalent level of sediment load reduction is achieved as a 50-foot natural buffer. EPA also established more flexible compliance alternatives for linear construction sites and for small residential lots. To learn more about EPA's buffer requirements and how to comply with them, see [CGP Appendix F](#).

- **If there is no existing or limited natural vegetation in the 50-foot buffer area, do I need to comply with the buffer requirements?**

There may be instances where the 50-foot area between your site's disturbances and a receiving water (i.e., the buffer area) is completely occupied by preexisting development disturbances (e.g., impervious cover). In this case, there would no preexisting natural buffer area on your site and EPA would consider it infeasible to provide and maintain a natural buffer meaning the site would be exempt from the buffer

requirements in the EPA's CGP. For example, the buffer requirements would not apply if a waterfront promenade completely occupied the 50-foot buffer area.

For any buffer areas that are only partially occupied by preexisting development disturbances, the buffer requirements in the EPA CGP will apply. The buffer requirements also apply to areas in the 50-foot buffer where natural vegetation is limited or nonexistent (e.g., rocky or sandy areas) and that are otherwise not occupied by preexisting development disturbances.

For any natural buffer areas on your site with limited vegetation or where there are preexisting development disturbances partially occupying the area, the permit does not require that the natural buffer area in existence be enhanced (e.g., through establishment of new vegetation). Compliance can be achieved simply by retaining and protecting from construction activities the natural buffer that existed prior to the commencement of construction. Or, if you will be conducting new disturbances within the 50-foot buffer area, to comply with the permit you would only be required to compensate for the loss in buffer sediment removal function resulting from your project's new disturbances; you do not have to compensate for the preexisting development disturbances. EPA provides an example for how this calculation could be done in [CGP Appendix F](#) (see Attachment 3).

- **If I provide an undisturbed 50-foot, natural buffer consistent with CGP Part 2.2.1(a)(i), are perimeter controls still required at the site?**

Yes. The requirement to provide and maintain a natural buffer or its equivalent in CGP Part 2.2.1 is independent of (and does not substitute for) the requirement in CGP Part 2.2.3 to install perimeter controls along areas of the site that will receive pollutant discharges. Therefore, where operators comply with CGP Part 2.2.1 by providing and maintaining a full 50-foot, natural buffer between their construction activities and any receiving waters, they must also install perimeter controls to meet the requirement in CGP Part 2.2.3, unless the control is being implemented pursuant to Part 2.2.1a.ii-iii. See CGP Part 2.2.3.a.

- **Is there any flexibility in applying the buffer requirements for small residential lots?**

Yes. Small residential lots include those that are being developed for residential purposes and will disturb less than one acre of land, but are part of a larger residential project that will ultimately disturb greater than or equal to one acre. Operators of these lots that are constructing within the 50-foot buffer area may, due to limited technical resources, have difficulty determining the necessary supplemental erosion and sediment controls to provide the equivalent sediment removal function of a 50-foot buffer. Because of this, and due to the lower risk of sediment discharge from these sites, EPA provides in the permit two streamlined compliance options to assist operators of small residential lots in meeting the proposed permit's buffer requirements.

The first compliance option identifies the minimum specific controls that an operator of a small residential lot would need to implement based on the buffer width to be retained. For example, Small Residential Lot Compliance Alternative 1 specifies that, if you retain a buffer width of 30 feet or less, you would need to provide the following: (1) a double row of perimeter controls between the disturbed portion of your site and the surface water

spaced a minimum of five feet apart, and (2) completion of stabilization within seven calendar days of the temporary or permanent cessation of earth-disturbing activities.

The second compliance alternative specifies the controls the operator of the small lot would need to implement based on both the buffer width to be retained and the site's relative risk of sediment discharge. Operators of small lots must first determine their site's sediment risk level (i.e., High, Moderate, or Low) based on their location, soil type, and slope using the tables provided in [CGP Appendix F](#). Based on the site's risk level and the width of buffer to be retained, Small Residential Lot Compliance Alternative 2 then specifies the controls to be implemented. For example, if your site is of "Moderate" sediment discharge risk and you are able to retain a 35-foot buffer, you must provide a double row of perimeter controls between the disturbed portion of your site and the surface water spaced a minimum of five feet apart. See Appendix F in the permit for details about these compliance alternatives.

- **Is there any flexibility in applying the buffer requirements to linear construction projects?**

Yes. Dispersal of stormwater discharges through adjacent vegetation is a common practice on many linear project sites. Therefore, operators of linear construction sites will in many cases find it feasible to treat stormwater discharges through vegetated buffers. However, EPA recognizes that operators of linear construction sites may have difficulty in fully complying with each of the compliance alternatives due to site constraints (i.e., operators of linear construction sites may not be able to provide the full 50-foot naturally vegetated buffer width). For this reason, EPA has provided a more flexible alternative to the buffer compliance alternatives in the CGP. The permit requires operators of linear construction sites to retain as much natural buffer as feasible, and/or to the extent feasible provide supplemental erosion and sediment controls in the buffer area.

For example, consider a linear construction site that has only ten feet of right-of-way between the disturbed area and a stream. In this case, permit compliance can be achieved by either providing a ten-foot natural buffer, or by providing a narrower buffer (e.g., five feet) and additional erosion and sediment controls (e.g., a fiber roll barrier in addition to the perimeter control), or by providing exclusively erosion and sediment controls. Note that operators must document in their SWPPP their rationale as to why it is infeasible to comply with the buffer requirements in CGP Part 7.2.6(b)(i)(e), and describe any buffer width retained and/or supplemental erosion and sediment controls installed.

- **Why will I have to obtain specific authorization to use cationic treatment chemicals under EPA's CGP?**

EPA conducted research regarding the relative toxicity of cationic chemicals for aquatic species. EPA confirmed that cationic chemicals have been found to be acutely toxic to some species. EPA's research is encapsulated in a memorandum entitled "Literature Survey of Polymer Toxicity for Construction General Permit (CGP) Work Group" (Office of Research and Development, November 2011), which is available in the docket for the final 2012 CGP.

In addition to the public comments and the Agency's aquatic toxicity research, EPA considered approaches that State permitting programs have taken to address cationic treatment chemicals. EPA found that where cationic chemicals are specifically addressed, the use of these chemicals is heavily conditioned. These considerations, in

addition to EPA's research, led EPA to the conclusion that the use of cationic treatment chemicals at construction sites is best managed if its proposed use is subject to a greater degree of individualized review. For that reason, EPA has provided for site-specific authorization if a site intends to use cationic treatment chemicals during construction. In authorizing the use of such chemicals, EPA may identify additional stormwater control measures that are needed in order to ensure that discharges meet applicable water quality standards.

The CGP authorizes the use of anionic polymers, flocculants, or other treatment chemicals at sites provided operators using such measures comply with the requirements in Part 2.2.13 of the permit. Operators that plan to use cationic treatment chemicals are only eligible for coverage under the CGP if site-specific EPA authorization is provided; otherwise, an individual permit is required in order to use such chemicals associated with a discharge of pollutants to receiving waters. Operators who plan to use cationic chemicals at their site can request authorization from EPA by using the form in [Appendix J, "Suggested Format for Request for Chemical Treatment."](#)

- **What are the stabilization deadline requirements in the EPA CGP?**

Total Amount of Site Land Disturbance Occurring at Any One Time	Deadline
<p><b>i. Five acres or less (<math>\leq 5.0</math>)</b>  <i>Note: this includes sites disturbing more than (<math>&gt;5.0</math>) acres total over the course of a project, but that limit disturbance at any one time (i.e., phase the disturbance) to five acres or less (<math>\leq 5.0</math>)</i></p>	<ul style="list-style-type: none"> <li>• Initiate the installation of stabilization measures immediately in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days; and</li> <li>• Complete the installation of stabilization measures as soon as practicable, but no later than 14 calendar days after stabilization has been initiated.</li> </ul>
<p><b>ii. More than five acres (<math>&gt;5.0</math>)</b></p>	<ul style="list-style-type: none"> <li>• Initiate the installation of stabilization measures immediately in any areas of exposed soil where construction activities have permanently ceased or will be temporarily inactive for 14 or more calendar days; and</li> <li>• Complete the installation of stabilization measures as soon as practicable, but no later than 7 calendar days after stabilization has been initiated.</li> </ul>

The CGP establishes a modified approach to the stabilization deadlines, which is based on the concept of phasing construction disturbances. Sites that disturb 5 acres or less total must complete stabilization within a 14-calendar day timeframe. For sites that disturb more than 5 acres total over the course of a construction project, operators have the flexibility to choose between completing stabilization within a 14-calendar day timeframe if they limit disturbances to 5 acres or less at any one time, or within a 7-calendar day timeframe if they do not limit disturbances to 5 acres or less at any one time. The intent of this approach is to provide an incentive to disturb less land at any

given period of time by providing longer stabilization timeframes if the disturbance is kept below a threshold level.

The deadline for sites discharging to sensitive waters remains unchanged (within 7 calendar days), and the exceptions for sites in arid, semi-arid, and drought-stricken areas and for operators affected by circumstances beyond their control also remain unchanged.

- **How can I determine if my project is in an area experiencing drought?**

For a project to qualify for adjusted stabilization timeframes (see Part 2.2.14) or modified inspection frequencies (see Part 4.4.2), the project site must be located in an area that meets specific climate definitions. These definitions include: arid conditions, semi-arid conditions, drought-stricken area, and the seasonally dry period. The steps for determining if a project site qualifies for the permit flexibilities listed above are:

1. Determine if a site is in an arid or semi-arid location using any of the following:
  - a. The [NOAA National Mapping webpage](https://www.ncdc.noaa.gov/cag/national/mapping) (<https://www.ncdc.noaa.gov/cag/national/mapping>),
  - b. The [PRISM Climate Group's Time Series Values for individual locations](https://prism.oregonstate.edu/explorer/) (<https://prism.oregonstate.edu/explorer/>), or
  - c. EPA's [US EPA EnviroAtlas](https://www.epa.gov/enviroatlas) (<https://www.epa.gov/enviroatlas>).

If the annual total precipitation is less than 10 inches, the site has arid conditions. If the annual total precipitation is greater than 10 inches but less than 20 inches, the site has semi-arid conditions. If the annual total precipitation is greater than 20 inches, the site does not meet the definitions for arid or semi-arid conditions.

If the site does not meet the definitions for arid or semi-arid, proceed to Step 2 to determine if the site has drought-stricken conditions. If the site has arid or semi-arid conditions, proceed to Step 3 to determine the seasonally dry period for the project location.

2. Determine if a site is in a drought-stricken area using the [NOAA U.S. Seasonal Drought Outlook](#), and identifying if the project site is located in an area which is marked: (1) Drought persists, (2) Drought remains but improves, (3) Drought removal likely, or (4) Drought development likely. If the site is in a drought-stricken area, proceed to Step 3 to determine the seasonally dry period for the project location.
3. Determine if it is the seasonally dry period for the site for the purposes of this permit using the EPA-developed Seasonally Dry Period Locator Tool. Note: the Seasonally Dry Period Locator Tool can be found at <https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates>. The Seasonally Dry Period Locator Tool allows permittees to determine if their construction project site is in an arid or semi-arid area, and if any months out of the year are considered seasonally dry. Classifications are based on long-term (1981-2010) climate data obtained from the PRISM Climate Group. Maps of arid and semi-arid areas, as well as seasonally dry areas by month, can be found on EPA's Construction General Permit website at <https://www.epa.gov/npdes/construction-general-permit-resources-tools-and-templates>. If the project is operating during those months that are considered seasonally dry, the project qualifies for adjusted stabilization timeframes (see Part 2.2.14) or modified inspection frequencies (see Part 4.4.2).

- **What does the permit mean by an area's "seasonally dry period" and why is this important?**

The permit provides different inspection (CGP Part 4.4.2) and stabilization (CGP Part 2.2.14.b.i) requirements for projects that will be active during a "seasonally dry period" within arid, semi-arid, or drought-stricken areas. To provide clarity, EPA defines "seasonally dry period" in Appendix A of the permit as a month in which the long-term average total precipitation is less than or equal to 0.5 inches. Defining seasonally dry periods helps identify times and locations where: (1) the risk of a discharge-producing storm event is below average, and (2) the ability to utilize vegetative stabilization measures on a site may be reduced due to lack of precipitation to sustain plant life. EPA establishes the threshold for the seasonally dry period as 0.5 inches of total precipitation per month, as measured by long-term climate data, because: (1) it is consistent with a below average monthly rainfall total for arid and semi-arid areas, and (2) it reflects a manageable risk of occurrence of storm events capable of producing stormwater discharges during the dry period.

EPA also provides operators with resources and guidance to assist them in determining whether they will be engaged in active construction during the seasonally dry period in an arid, semi-arid, or drought-stricken areas. See [EPA's Resources, Tools, and Templates webpage](#) for further instructions on determining if a project site qualifies for the "seasonally dry period" permit requirements.

- **What does it mean to limit disturbances at any one time to 5 acres or less?**

For the purposes of the stabilization requirements in CGP Part 2.2.14(a), limiting disturbances to 5 acres or less at any one time means that at no time during the project do the cumulative earth disturbances exceed 5 acres. The following examples qualify as limiting disturbances at any one time to 5 acres or less:

- The total area of disturbance for a project is 5 acres or less.
- The total area of disturbance for a project will exceed 5 acres, but the operator ensures no more than 5 acres will be disturbed at any one time through implementation of stabilization measures. In this way, site stabilization can be used to "free up" land that can be disturbed without exceeding the 5-acre cap to qualify for the 14-day stabilization deadline. For instance, if an operator completes stabilization of 2 acres of land on a 5-acre disturbance, then 2 additional acres could be disturbed while still qualifying for the longer 14-day stabilization deadline.

- **Will the stabilization deadline for my site change if disturbances exceed 5 acres?**

Yes. The important determiner of which stabilization deadline applies is the total amount of disturbance occurring at any one time during the course of the project. If at any point during the course of the project, total land disturbance at any one time exceeds 5 acres, the deadline to complete stabilization for this portion of the project is within 7 calendar days of initiating stabilization. This deadline applies regardless of whether a previous phase of construction may have limited disturbance to 5 acres or less and was able to take advantage of the 14-calendar day deadline for stabilization. For instance, let's consider an operator who starts work on a 20-acre project by clearing and grading a 5-acre portion of the site. While that construction is ongoing and prior to stabilization, the

operator clears and grades another 3-acre area. In this example, the operator would be required to comply with the 7-day stabilization deadline because the amount of disturbed area on the site at any one time exceeds the 5-acre threshold. If total land disturbance at any one time is subsequently reduced to 5 acres or less, the deadline to complete stabilization will return to within 14 calendar days. Therefore, operators have the flexibility to disturb more land when needed, but are required to stabilize faster because the disturbed is unprotected and vulnerable to erosion and sediment transport during storm events. This approach intends to provide the incentive to stabilize enough land to bring total disturbance at any one time back under the 5-acre threshold so that the operator can resume receiving the benefit of the longer 14-calendar day stabilization deadline.

- **What are the requirements for impaired and high quality waters in the EPA's CGP?**

The CGP includes requirements to protect impaired waters that receive construction site stormwater discharges. Operators of sites that discharge to sediment- or nutrient-impaired waters must comply with more rapid site stabilization requirements and increased site inspection requirements.

Operators of sites that discharge to high quality waters (i.e., Tier 2, 2.5, or 3 waters) must also comply with the requirements for more rapid site stabilization and increased site inspections. Operators of sites that discharge to any waters impaired for polychlorinated biphenyls (PCBs) and are engaging in demolition of any structure with at least 10,000 square feet of floor space built or renovated before January 1, 1980, must implement additional controls to minimize the exposure of PCB-containing building materials.

For sites discharging dewatering water to a sediment-impaired or Tier 2, 2.5, or 3 water, operators are required to conduct turbidity benchmark monitoring in accordance with CGP Part 3.3. For more information, see EPA's Turbidity Benchmark Monitoring webpage at <https://www.epa.gov/npdes/turbidity-benchmark-monitoring-dewatering-under-construction-general-permit>.

- **What does it mean for a waterbody to be impaired for a "sediment-related parameter"?**

For the purposes of this permit, a "sediment-related parameter" is one that is closely related to sediment such as turbidity, total suspended solids (TSS), total suspended sediment, transparency, sedimentation, and siltation.

- **What is expected regarding inspections if a storm event happens outside a project's normal business hours?**

Under the CGP, inspections are only required during a project's normal working hours. For example, if the storm event that produces 0.25 inches of rain occurs on a Saturday, an inspection would be required on Monday - this project's next work day.

- **Are there situations when infiltration should not be used at a site?**

The CGP encourages operators to infiltrate stormwater from construction sites. CGP Part 2.2.2 requires operators to direct stormwater to vegetated areas and maximize stormwater infiltration and filter to reduce pollutant discharges. The permit provides the operator with an exception to the requirement to maximize stormwater infiltration and

filtering if, in their judgment, infiltration would be inadvisable due to the underlying geology (e.g., karst topography) and groundwater contamination concerns, or infeasible due to site conditions.

Operators should consider whether factors such as specific contaminant concerns from the construction site, the underlying soils or geology, hydrology, depth to the ground water table, or proximity to source water or wellhead protection area(s) make the site unsuitable for infiltrating construction stormwater. Site conditions that may be of particular concern include proximity to: a current or future drinking water aquifer; a drinking water well or spring (including private/household wells); highly conductive geology such as karst; known pollutant hot spots, such as hazardous waste sites, landfills, gas stations, brownfields; an on-site sewage system or underground storage tank; or soils that do not allow for infiltration.

You may find it helpful to consult EPA's [Drinking Water Mapping Application to Protect Source Waters](#) (DWMAPS). DWMAPS is an online mapping tool that can be used to locate drinking water providers, potential sources of contamination, polluted waterways, and information on protection initiatives in the site area.

- **Are there situations where stormwater controls for storm inlets are not required?**

CGP Part 2.2.10 requires the installation of inlet protection measures prior to entry into storm drain inlets that carry stormwater from the site to a receiving water if the operator has authority to access the storm drain inlet. EPA has added an exception to this requirement in Part 2.2.10.a for storm drain inlets that are conveyed to a sediment basin, sediment trap, or similarly effective control. Where this exception applies, the operator is required to include in the SWPPP a short description of the control that receives stormwater flow from the site. See CGP Part 7.2.6.b.iv.

- **Are there erosion controls that can be implemented that are more “wildlife friendly” than others?**

It is common for some type of netting to be used in connection with seeding or planting to guard against erosion while vegetation is established for stabilization. If netting will be used at the site, EPA encourages operators to consider employing products that have been shown to minimize impacts on wildlife. For instance, the U.S. Fish & Wildlife Service provides recommendations on the type of netting practices that are considered “wildlife friendly,” including those that use natural fiber or 100 percent biodegradable materials and that use a loose weave with a non-welded, movable jointed netting, as well as those products that are not wildlife friendly including square plastic netting that are degradable (e.g., photodegradable, UV-degradable, oxo-degradable), netting made from polypropylene, nylon, polyethylene, or polyester. Other recommendations include removing the netting product when it is no longer needed. See [https://www.fws.gov/midwest/eastlansing/library/pdf/WildlifeFriendlyErosionControlProducts\\_revised.pdf](https://www.fws.gov/midwest/eastlansing/library/pdf/WildlifeFriendlyErosionControlProducts_revised.pdf) for further information. There also may be State, Tribal, or local requirements or recommendations about using wildlife friendly erosion control products.

- **What does it take to be considered a “qualified person” for inspections?**

A “qualified person” is someone who has completed the training required by CGP Part 6.3. For projects that receive coverage prior to February 17, 2023, any personnel conducting site inspections pursuant to CGP Part 4 on your site must, at a minimum, be a

person knowledgeable in the principles and practice of erosion and sediment controls and pollution prevention, who possesses the appropriate skills and training to assess conditions at the construction site that could impact stormwater quality, and the appropriate skills and training to assess the effectiveness of any stormwater controls selected and installed to meet the requirements of the permit.

For projects that receive permit coverage on or after February 17, 2023, personnel conducting site inspections must complete the training requirements in CGP Part 6.3 to be a “qualified person” for conducting inspections

For more information and to find the available trainings:

<https://www.epa.gov/npdes/construction-general-permit-inspector-training>.

- **Can I electronically prepare and sign the SWPPP, inspection reports, corrective action reports, and any other compliance documents and maintain them as electronic records?**

Under the CGP, SWPPPs, site and dewatering inspection reports, and corrective action logs may be prepared, signed, and kept electronically if the records are: (a) in a format that can be read in a similar manner as a paper record; (b) legally dependable with no less evidentiary value than their paper equivalent; and (c) accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.

For additional guidance on the proper practices to follow for the electronic retention of compliance records, refer to the [Fact Sheet](#) discussion for CGP Part 4.7.3.

- **When am I supposed to begin conducting inspections at my site?**

Compliance with all CGP requirements, including the inspection requirements, begins on the effective date of coverage. If no “construction activities” or “construction support activities” (as defined in Appendix A) have commenced due to an unforeseen delay, the inspection “clock” would begin only when you initiate construction activities. You should note in the SWPPP when construction activities actually started and modify your NOI to reflect the “estimated project start date” once the estimated date is known so that you properly document why inspections did not begin 7 or 14 calendar days after the effective date of permit coverage.



## DEWATERING REQUIREMENTS IN EPA'S CGP

- **What new controls are required for the discharge of dewatering water?**

EPA has updated the requirements for construction dewatering activities as part of the Agency's broader interest in addressing what it has found to be a lack of compliance at sites with dewatering controls that are inadequate or improperly installed and maintained, resulting in significant discharges of sediment and other pollutants to receiving waters. Additional specificity is provided in terms of the types of pollutants that must be controlled in the discharge, and additional detail is provided on how erosion is to be minimized at the point of discharge.

The following is a summary of the updated dewatering control requirements:

- To prevent discharges with visual turbidity, Part 2.4.1 clarifies that dewatering water must be routed through a sediment control that will minimize the sediment content of dewatering discharges.
- The permit includes new text in Part 2.4.3 to clarify that dewatering discharges must not cause the formation of a visible sheen on the water surface, or visible oily deposits on the bottom or shoreline of the receiving water. This new text is intended to serve as a backstop to the requirement that the oil-water separator or similar filtration device be used in case such practices prove ineffective and need to be modified or replaced.
- Part 2.4.5 is updated to emphasize the requirements on minimizing erosion: Parts 2.4.5.a and b requires the use of stable, erosion-resistant surfaces at the discharge point and prohibit the placement of dewatering controls on steep slopes. Part 2.4.5.c updates the requirement to comply with velocity dissipating measures at the point of the dewatering discharge to better align with the intended purpose of such measures (i.e., prevent dewatering-related erosion and related sediment discharges).

- **Are sites required to eliminate turbidity?**

No. Part 2.4.1.a ensures that sediment controls have the design objective of minimizing discharges that have a visible sediment plume or are opaque or cloudy. Well-designed controls that are operated and maintained correctly, but produce a discharge with a sediment plume, requires the operator to investigate the current controls to determine if there is some identifiable problem that can be fixed through corrective action. See CGP Parts 5.1.5 and 5.2.2.

- **What is the inspection frequency for sites while they are dewatering?**

EPA is requiring inspections on a daily basis when construction dewatering is taking place. See CGP Part 4.3.2.

Note that the CGP Part 4.2 inspection frequency still applies to all other portions of the site, unless the site is subject to the increased frequency in Part 4.3.1 or eligible for the reduced frequency in CGP Part 4.4.

- **Why did EPA increase the inspection frequency in the 2022 CGP for sites while they are dewatering?**

EPA has found from its inspections of permitted sites that neither the default inspection frequency in Part 4.2.2 (either weekly or biweekly and within 24 hours of a 0.25 inch rain storm or a snowmelt discharge from a snow storm that produces 3.25 inches or more of snow) nor the increased inspection frequency for discharges to impaired and Tier 2, 2.5, and 3 waters in Part 4.3.1 is likely frequent or targeted enough to catch and respond to problems associated with dewatering that are occurring at a particular time. Dewatering activities causing significant pollutant discharges may occur on a non-inspection day, in which case the discharge may continue unabated until the next inspection day. Due to the high rate of flow from dewatering activities and the potential for significant pollutant discharge if the controls are not working effectively or designed properly, increased inspections give operators the opportunity to discover problems closer to the time they are occurring and to respond in an expeditious manner. Requiring increased oversight over the dewatering discharge and pollutant controls will be especially effective given

the operator's significant control over the discharge, including the ability to immediately shut off the discharge if necessary to evaluate and fix a problem on the site.

EPA notes that other States also require or recommend daily inspections of the dewatering discharge in their permits. Additionally, a number of State best management practice manuals recommend that dewatering controls be inspected daily.

- **What are the new CGP requirements for dewatering inspections?**

Conducting inspections: The operator must ensure that the person conducting inspections is a "qualified person." CGP Part 4.1 now redefines who a qualified individual may be so that it is linked to the minimum training for all site inspectors in CGP Part 6.3. This represents a change from the 2017 CGP, which defined the qualified person in more general terms. The 2022 permit reframes the requirement by establishing minimum training requirements for the site inspector to be considered a qualified person.

Frequency of inspections: EPA is requiring inspections on a daily basis when construction dewatering is taking place. See Part 4.3.2.

Location of inspections: Among the areas of the site that must be inspected, EPA includes in Part 4.5.5 the areas where construction dewatering is taking place, including controls to treat the dewatering discharge and any channelized flow of water to and from those controls.

Records: EPA now requires the operator to record certain minimum details about the dewatering discharge. Under the new requirements, operators are required to record the following as part of their dewatering inspection:

- Approximate times that the dewatering discharge began and ended on the day of inspection and estimates of the rate (in gallons per day) of discharge on the day of inspection
- Whether certain pollutant indicators were observed at the point of discharge to any receiving waters flowing through or immediately adjacent to the site and/or to constructed or natural site drainage features or storm drain inlets:

Photographs: The operator must take photographs of (1) dewatering water prior to treatment by a dewatering control(s) and the final discharge after treatment; (2) the dewatering control(s); and (3) the point of discharge to any receiving waters flowing through or immediately adjacent to the site and/or to constructed or natural site drainage features, storm drain inlets, and other conveyances to receiving waters.

Inspection Report Deadline: EPA also clarifies that the dewatering inspection report must be completed within 24 hours of the inspection, and include the inspection date (Part 4.6.3.a) and names and titles of personnel making the inspection (Part 4.6.3.b), similar to the information required for site inspections in Part 4.7.1.

Inspection Report Information: EPA also adds a clarification to Part 4.6.4.b explaining that as part of the inspection, the operator must modify the SWPPP site map if the site's stormwater controls are no longer accurately reflected on the current site map. EPA includes a clarifying footnote in Part 4.7.3 to specify that inspection reports may be prepared, signed, and kept electronically, rather than in paper form, if that is preferred by the operator. To make sure that the electronic reports can be accessed and read in the same way as paper, the permit requires that the records be: (a) in a format that can be read in a similar manner as a paper record; (b) legally dependable with no less

evidentiary value than their paper equivalent; and (c) immediately accessible to the inspector during an inspection to the same extent as a paper copy stored at the site would be, if the records were stored in paper form.

- **What is the purpose of benchmark turbidity monitoring?**

The CGP's turbidity benchmark monitoring requirements for dewatering discharges to sensitive waters (Part 3.3) provide a water quality condition against which operators can evaluate the effectiveness of their dewatering controls and ensure that there will be a corrective action response to protect water quality if the dewatering controls are shown to be ineffective.

- **Who must conduct turbidity monitoring?**

Sites discharging dewatering water to "sensitive waters" (i.e., receiving waters listed as impaired for sediment or a sediment-related parameter (as defined in Appendix A), or receiving waters designated as a Tier 2, Tier 2.5, or Tier 3 for antidegradation purposes) are required to comply with the turbidity monitoring requirements in CGP Part 3.3.

- **Where is monitoring required?**

Samples must be taken at all points where dewatering water is discharged. Samples must be taken after the dewatering water has been treated by installed treatment devices pursuant to Parts 2.4.1 and 2.4.3 and prior to its discharge off site into a receiving water, constructed or natural site drainage feature, or storm drain inlet.

- **How do I monitor for turbidity?**

Operators are required to collect at least one turbidity sample from the dewatering discharge each day a discharge occurs. Samples taken must be representative of the dewatering discharge for any given day as required in Appendix G (standard permit conditions), Part G.10.2. Additionally, samples must be measured using a turbidity meter that reports results in nephelometric turbidity units (NTUs) and conforms with a Part 136-approved method (e.g., methods 180.1 and 2130). The operator is required to use the meter, and conduct a calibration verification prior to each day's use, consistent with the manufacturer's instructions.

EPA has put together and posted on its webpage a guidance document, [Monitoring and Inspection Guide for Construction Dewatering](#), to assist operators in complying with the turbidity benchmark monitoring requirements. The guide provides information on how to correctly monitor for turbidity, determine if the weekly average exceeds the benchmark, and, if so, how to proceed with corrective action, as well as how to comply with the permit's dewatering inspection requirements.

Where there are multiple operators associated with the same site, the operators may coordinate with one another to carry out the monitoring requirements to avoid duplicating efforts consistent with CGP Part 3.3. Such coordinating arrangements must be described in the SWPPP consistent with CGP Part 7.2.8.

- **What happens if I exceed the turbidity benchmark?**

Turbidity benchmarks are not effluent limitations; rather, they are a numeric measure for assessing whether a site’s dewatering controls are effective in protecting water quality. If the weekly average of your turbidity monitoring results exceeds the standard benchmark (or your approved alternate benchmark), you are required to conduct follow-up corrective action in accordance with CGP Part 5.2.2 and document any corrective action taken in your corrective action log in accordance with CGP Part 5.4.

If there is a benchmark exceedance, there is no permit violation. However, there are still enforceable components of the benchmark monitoring requirements. The operator must comply with all the sampling, reporting, and recordkeeping provisions in CGP Part 3.3, and with the corrective action requirements in CGP Part 5.2.2. Failure to comply with any of these provisions is considered a violation of the permit.

- **Do I have to submit turbidity data to EPA?**

If you are required to conduct turbidity monitoring under CGP Part 3.3, you must submit reports of your weekly average turbidity results to EPA no later than 30 days following the end of each monitoring quarter. Operators are required to indicate in the turbidity monitoring report if there are monitoring weeks in which there was no dewatering discharge, or if there is a monitoring quarter with no dewatering discharge. Operators must also indicate in the turbidity monitoring report if another operator associated with the same site is conducting turbidity monitoring on behalf of the permittee pursuant to CGP Part 3.3.

For the CGP, the following monitoring quarters and reporting deadlines apply:

<b>Monitoring Quarter #</b>	<b>Months</b>	<b>Reporting Deadline</b> (no later than 30 days after end of the monitoring quarter)
1	January 1 – March 31	April 30
2	April 1 – June 30	July 30
3	July 1 – September 30	October 30
4	October 1 – December 31	January 30

Use [EPA's NPDES eReporting Tool \(NeT\)](#) to electronically submit quarterly turbidity data, unless, consistent with CGP Part 1.4.2, the operator receives a waiver from the applicable EPA Regional Office. If the EPA Regional Office grants approval to use a paper turbidity monitoring report form, the operator must use the form in [CGP Appendix K](#). If EPA approves of a request to use an alternate turbidity benchmark pursuant to CGP Part 3.3.2b, EPA will substitute the alternate benchmark in the operator's NeT account.

For each day in which the operator is required to monitor, they must record the monitoring information required by [CGP Appendix G](#), Parts G.10.2 and G.10.3 and retain all such information for a period of at least three years from the date this permit expires or from the date authorization is terminated.



## POLLUTION PREVENTION REQUIREMENTS IN EPA'S CGP

- **How have the EPA CGP requirements changed for storage and handling of diesel fuel, oil, hydraulic fluids, other petroleum products, and other chemicals at construction sites?**

The new requirements are not materially different from those of the 2017 CGP. The main difference is that the requirements are reorganized so that the types of controls for small and large containers are appropriate for their relative risk and the controls needed to prevent and abate a spill or leak.

EPA revised the CGP Part 2.3.3.c pollution prevention requirements for diesel fuel, oil, hydraulic fuels, or other petroleum products, and other chemicals to require controls based on the volume of chemicals being used and stored on the site. The controls used to prevent and treat a possible spill and leak should be able to be moved around the project site wherever the materials are being used or stored. The permit establishes control requirements that are appropriate for smaller-sized containers by requiring that the operator use water-tight containers that are kept closed, sealed, and secured when not being actively used, place them on a spill containment pallet (or similar device) if kept outside, and have available at all times a spill kit in good working condition and personnel available to respond quickly to a spill or leak.

Where larger chemical containers will be present at the site, the permit includes controls that are more geared to the storage of chemical material in a fixed location and that are effective at preventing pollution from a larger spill or leak that could pose a significantly higher risk to the receiving water. In addition to the requirement for smaller chemical containers to store them in water-tight containers and keep them closed, sealed, and secured when not in use, the permit specifically requires the following for larger volumes of chemicals on site:

- Store containers a minimum of 50 feet from receiving waters, constructed or natural site drainage features, and storm drain inlets (unless infeasible due to site constraints, in which case the permit requires containers to be stored as far away from these features as the site permits).
  - Provide either (1) cover (e.g., temporary roofs) to minimize the exposure of these containers to precipitation and to stormwater, or (2) secondary containment (e.g., curbing, spill berms, dikes, spill containment pallets, double-wall above ground storage tank); and
  - Have a spill kit available on site that is in good working condition (i.e., not damaged, expired, or used up) and ensure personnel are available to respond immediately in the event of a leak or spill. Additional secondary containment measures are listed at 40 CFR § 112.7(c)(1).
- **How have the EPA CGP pollution prevention requirements changed for construction and domestic wastes?**

The permit modifies CGP Part 2.3.3.e related to the requirement to store construction and domestic wastes in waste containers. The provision now specifies that waste containers are not required for the waste remnant or unused portions of construction materials or final products that are covered by the exception in Part 2.3.3.a (i.e., "Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or

product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use)") as long as:

- These wastes are stored separately from other construction or domestic wastes regulated by Part 2.3.3.e.i (i.e., wastes not covered by the exception in Part 2.3.3.a). If the wastes are mixed, they must be stored in waste containers as required in Part 2.3.3.e.i; and
- These wastes are stored in designated areas of the site, the wastes are described in the SWPPP, and identified in the site plan.

EPA urges operators to exercise caution in applying this exception. It should be fairly easy for operators to determine whether certain waste materials like the waste remnant or unused portions of rock (e.g., gravel, stone, riprap) and untreated lumber, board, and composite wood (e.g., plywood) qualify for the exception. Other waste materials, however, such as blast rock or rebar, may contain pollutant residues or rust that could be discharged when exposed to stormwater, thereby disqualifying them for the exception. Where there is any doubt whether the exception applies, the operator is expected to err on the side of caution and store such materials in containers as required under Part 2.3.3.e.i.



#### INSPECTIONS, ROUTINE MAINTENANCE, AND CORRECTIVE ACTIONS IN EPA'S CGP

- **What non-EPA training programs can I take to ensure I am a “qualified person” to conduct inspections?**

There are a number of existing state and third-party stormwater courses that offer alternatives to the inspector training program EPA will be releasing for its 2022 CGP. As long as the non-EPA course covers the minimum topics listed in CGP Part 6.3.b, an individual completing the course and having an up-to-date certification of completion can rely on the course to comply with the CGP's requirements. Examples of non-EPA training programs that may cover these minimum topics are provided on EPA's [Construction General Permit Inspector Training webpage](#).

EPA's reference to any training programs on its webpage does not constitute an Agency endorsement of any individual product or vendor. EPA may update this list from time to time as it learns of additional training programs that may meet the CGP Part 6.3.b requirements. If you are aware of any training programs not listed on the webpage that you believe satisfy these requirements, you may contact EPA to provide information for the Agency's consideration.

- **What happens if I've taken training already, but a required topic was not taught in that training?**

If one of the minimum training topics from the CGP Part 6.3.b list of required training topics (e.g., installation and maintenance of pollution prevention practices) is not covered by a non-EPA training program, you may consider supplementing that training program with the analogous module of the EPA course (e.g., Module 4) that covers the missing minimum training topic. See footnote 80.

- **What are the training requirements for inspectors?**

For projects that receive permit coverage prior to February 17, 2023, operators may continue to comply with the training requirements as they were worded in the 2017 CGP:

For projects that receive permit coverage on or after February 17, 2023, CGP Part 6.3 specifies that anyone carrying out inspections must either (1) complete the EPA construction inspection course developed for this permit and pass the exam, or (2) hold a current valid certification or license from a non-EPA training program that covers essentially the same principles. The requirements specify that the non-EPA training program must cover, at a minimum, the following:

- Principles and practices of erosion and sediment control and pollution prevention practices at construction sites;
- Proper installation and maintenance of erosion and sediment controls and pollution prevention practices used at construction sites; and
- Performance of inspections, including the proper completion of required reports and documentation, consistent with the requirements of Part 4.

For more information on the training requirements for personnel conducting inspections for permitted construction sites, see EPA's webpage "Construction General Permit Inspector Training" at <https://www.epa.gov/npdes/construction-general-permit-inspector-training>.

- **What is the difference between routine maintenance and corrective actions in the EPA CGP?**

In the 2022 CGP, EPA is defining for the first time routine maintenance in CGP Part 2.1.4 as "minor repairs or other upkeep performed to ensure the site's stormwater controls remain in effective operating condition, not including significant repairs or the need to install a new or replacement control." By contrast, if what is needed is a significant repair (e.g., the control needs to be temporarily taken off line and special equipment or a major replacement part is needed) or a replacement or completely different control, then the operator must treat this as a corrective action under CGP Part 5. See CGP Part 2.1.4.d.

- **When are inspections required for rainfall? How is it different from when it snows?**

If the operator decides to conduct bi-weekly inspections instead of weekly, CGP Part 4.2.2 requires an additional inspection if specific precipitation conditions occur. Specifically, an additional inspection is required within 24 hours of a storm event that produces 0.25 inch or more of rain within a 24-hour period, or within 24 hours of a discharge caused by snowmelt resulting from an accumulation of 3.25 inches or more within a 24-hour period.

If a rain event occurs that produces 0.25 inches or more during the two-week period or a snowmelt discharge occurs following a 3.25 inch or greater snowstorm, an inspection must be performed within 24 hours of the occurrence of the event. Following the event-related inspection (or final event-related inspection in cases of multi-day events), the operator must conduct the next inspection within no more than 14 calendar days.

- **What happens if there is a storm that continues for multiple days, or that stops and starts multiple times during a day or over multiple days?**

If a storm event produces 0.25 inches or more of rain within a 24-hour period, you must conduct one inspection within 24 hours of when 0.25 inches of rain or more has fallen. This includes when there are multiple, smaller storms that alone produce less than 0.25 inches but together produce 0.25 inches or more in 24 hours. By contrast, if a storm event produces 0.25 inches or more of rain within a 24-hour period on the first day of a storm and continues to produce 0.25 inches or more of rain on subsequent days, you must conduct an inspection within 24 hours of the first day of the storm and within 24 hours after last day of the storm that produces 0.25 inches or more of rain (i.e., only two inspections would be required for such a storm event). See CGP Part 4.2.2.a.

Example: If 0.30 inches of rain falls on Day 1, 0.25 inches of rain falls on Day 2, and 0.10 inches of rain fall on Day 3, the operator would be required to conduct a first inspection within 24 hours of the Day 1 rainfall and a second inspection within 24 hours of the Day 2 rainfall, but a third inspection would not be required within 24 hours of the Day 3 rainfall.

Where a snowmelt discharge is concerned, additional snowmelt inspections are only required if following the discharge from the first snowmelt, there is a discharge from a separate storm event that produces 3.25 inches or more of snow. See CGP Part 4.2.2.b.



#### TERMINATING COVERAGE UNDER EPA'S CGP

- **How have the requirements for terminating coverage under the EPA CGP changed?**

The permit now requires in CGP Part 8.2.1.a that you take and submit photographs showing the stabilized areas of the site as part of the Notice of Termination (NOT). EPA specifies that you are not required to take photographs of every distinct part of the site that is being stabilized, however, the conditions of the site portrayed in any photographs that are submitted must be substantially similar to those of the areas that are not photographed. EPA also clarifies that stabilization conditions that are substantially similar would include areas that are using the same type of stabilization measures and that have similar slopes, soils, and topography, and have achieved the same level of stabilization. For any portions of the site being photographed, one photo must be taken before the specific area has met the final stabilization criteria, and one must be taken after the area is stabilized.

The permit also specifies that if any portion of the site is covered by one of the exceptions in Part 2.2.14.c.iii (i.e., for arid, semi-arid, and drought-stricken areas; disturbed areas on agricultural land restored to preconstruction agricultural use; and areas that need to remain disturbed), you must indicate which exception applies and include a supplementary explanation with the photographs that provides the necessary context for why this portion of the site is in compliance with the final stabilization criteria even though it appears to be unstabilized.

- **If an operator has permit coverage as part of a larger common plan of development or sale, can an NOT be filed once the project is complete?**

Yes, once all of the construction activities included in the original NOI are eligible for termination of coverage under CGP Part 8, then the operator must submit the NOT in accordance with the permit.

Operators do not have to wait for other portions of the larger common plan of development or sale that they did not include in their original NOI and do not have control over (i.e. another operator's site) to be complete before submitting an NOT. However, if portions of the common plan project that the operator described in the original NOI are eligible for termination, but other portions are still undergoing active construction or are yet to be started, then the operator must wait until all portions of the project that are permitted under that original NOI are completed before submitting the NOT. For example, if the operator is a general contractor building homes on multiple lots as part of a larger residential subdivision development, and the operator has submitted one NOI to cover all of the lots, that operator would not be able to submit an NOT until all of the lots are eligible for termination.

- **What are my options for meeting the “final stabilization” criteria?**

In the EPA CGP, you can terminate permit coverage once your site achieves final stabilization on all areas not covered by permanent structures for which you had control over during construction, provided you have met the other requirements for terminating coverage. For the purpose of this discussion, “permanent structure” is used not only in the more traditional sense of “buildings,” but to refer also to other things built on the ground whose intended purpose would require it to remain in a non-vegetated condition after construction has ended (e.g., parking lots, roads, gravel equipment pads, sidewalks, runways). The permit specifies that final stabilization be achieved through vegetative or non-vegetative measures.

Final vegetative stabilization means that operators have established uniform, perennial vegetation (i.e., evenly distributed, without large bare areas), or for arid or semi-arid areas, will be established, that provides 70 percent or more of the cover that was provided by vegetation native to local undisturbed areas. Perennial vegetation could include grasses, ground covers, trees, shrubs, etc. If prior to construction your site's cover is equal to 50 percent, your site would need to have 35 percent cover (70 percent of 50 percent).

The final stabilization requirements for arid, semi-arid, or drought-stricken areas are different. In these areas, final stabilization is met if the area you have seeded or planted to establish vegetation will within three years provide 70 percent or more of the cover that was provided by vegetation native to local undisturbed areas. In addition to seeding or planting the area to be vegetatively stabilized in arid, semi-arid, or drought-stricken areas, to the extent necessary to prevent erosion on the seeded or planted area, you must apply non-vegetative erosion controls that provide cover for at least three years without active maintenance by you. Non-vegetative erosion controls in this context include what are known as “temporary degradable rolled erosion control products,” a.k.a., “erosion control blankets” (ECBs).

Final non-vegetative stabilization means that non-vegetative stabilization methods have been implemented to provide effective cover for exposed portions of the site. Examples include, but are not limited to, rip-rap, gravel, gabions, and geotextiles.