EPA Construction General Permit Routine Maintenance/Corrective Action Determination Guidelines

Introduction

EPA's Construction General Permit (CGP) requires construction operators to note conditions identified on the construction site that may require either "routine maintenance" or "corrective action" and fix the problems in accordance with the appropriate requirement. Inspectors or others may document these conditions during inspections and at other times during construction. Routine maintenance and corrective actions have separate triggers under the CGP, as well as differing timelines for completion and requirements for documentation.

Determining whether a specific condition requires routine maintenance or corrective action may be straightforward in some circumstances, however, in other circumstances, such as deciding whether a required repair is significant or minor, it will come down to the judgment of the construction operator. The questions presented in this document are intended to guide operators in both types of circumstances.[1]

CGP Requirements for Routine Maintenance and Corrective Actions

Routine maintenance, as described in CGP Part 2.1.4.b, is defined as "minor repairs or other upkeep performed to ensure the site's stormwater controls remain in effective operating condition, not including major repairs or the need to install a new or replacement control." CGP Part 2.1.4.b also requires routine maintenance to be initiated by the operator immediately and completed by the close of the next business day, unless the operator documents that this deadline is infeasible, in which case the work must be completed within seven (7) calendar days.

Corrective actions are triggered by one of several conditions described in CGP Part 5.1. These conditions involve problems that are typically more significant than the routine maintenance triggers. If the corrective action requires a new or replacement control or significant repair, CGP Part 5.2 requires the operator to complete the fix within 7 days, unless the operator documents that this deadline would be infeasible, in which case the work must be completed and the control made operational as soon as feasible after the 7-day timeframe. If the corrective action does not require a new or replacement control or significant repair, the operator must complete the fix by the close of the next business day.

These guidelines are limited to focusing on whether routine maintenance is required or whether one of the following conditions requiring corrective action is present:

- A stormwater control needs a significant repair (CGP Part 5.1.1);
- A new or replacement stormwater control is needed (CGP Part 5.1.1);
- The operator finds it necessary to repeatedly (i.e., 3 or more times) conduct the same routine maintenance fix to the same control at the same location (unless the operator documents in the inspection report that the specific reoccurrence of the same problem should still be addressed as a routine maintenance fix) (CGP Part 5.1.1); or
- A stormwater control necessary to comply with the permit was never installed or was installed incorrectly (CGP Part 5.1.2).

These guidelines do not address the other corrective action triggers listed in CGP Parts 5.1.3, 5.1.4, and 5.1.5.

[1] This document does not impose any new legally binding requirements on EPA, States, Tribes, territories, or the regulated community, and does not confer legal rights or impose legal obligations upon any member of the public. In the event of a conflict between this document and any statute, regulation, or permit, this document would not be controlling. Interested parties are free to raise questions and objections about the substance of this document, and about its applicability to a particular situation. EPA retains the discretion to adopt approaches on a case-by-case basis that differ from those described in this guide, where appropriate.

All findings of routine maintenance or corrective actions must be documented in the inspection report. Corrective actions must also be documented in a corrective action log.

Routine Maintenance or Corrective Action?

Use these questions to determine if a problem with a specific control requires corrective action or routine maintenance.

Question 1: Is this a control that is required under the CGP and:

- **was never installed; or**
- **was incorrectly installed?**

If yes to either, then corrective action is required. The triggering condition(s) and the actions taken to address it must be documented in a corrective action log entry in accordance with CGP Part 5.4.

If no, move to Question 2.

Examples:

- The control was never installed:
  - Inlet controls are included in the SWPPP but are not installed.
  - A spill kit is not available for a fuel storage area.
  - A sand pile has no evidence of cover or secondary containment.
- The installed control significantly departs from the design described in the SWPPP or applicable local design specifications, making the installed control ineffective:
  - The fence posts of a silt fence are installed on the wrong side (i.e., facing upgradient).
  - A stabilized construction entrance is shorter than the required length.
  - A sediment tank is missing a required filter.

Question 2: Does the control need to be replaced in its entirety?
Answer yes if either the control must be replaced with a different type of control because the existing control proved to be ineffective, or the control can be replaced with the same type of control because the original control failed but is still an appropriate control.

If yes, then corrective action is required. The triggering condition(s) and the actions taken to address it must be documented in a corrective action log entry in accordance with CGP Part 5.4.

If no, and the control can be repaired instead of being replaced, move to Question 3.

Examples:

- The original control has failed or is proving to be ineffective, and needs to be replaced with a different type of control:
  - Stabilization with blown straw and seeding on a disturbed slope has completely failed as evidenced by rill erosion and significant soil loss, because the slope is too steep for vegetation to establish without additional controls to keep the seeding in place.
  - A filter sock check dam needs to be replaced with a riprap check dam because it is not adequately slowing the flow of stormwater in a channel that discharges from the site, and there is evidence of scour and erosion at the outfall.

Examples (continued):

- The original control failed but is still an appropriate control:
  - An entire section of silt fence installed on the site perimeter has collapsed and been damaged beyond repair by construction equipment.
  - Gravel installed as inlet protection is clogged with sediment and is no longer filtering stormwater.
  - A new concrete washout pit needs to be installed because the existing washout pit is full and close to overflowing.

<u>Question 3:</u> If repairs are required, but the control does not need to be replaced in its entirety, does the control require significant repairs?

A "significant repair" is required if any of the following is true: the control must be temporarily taken offline, and/or major replacement parts, specialized equipment, materials, or personnel that are not regularly available to the operator are required. CGP Part 5.1.1.

Indicators of a non-significant or "minor repair" include that the equipment, materials, parts, and/or personnel necessary for the repair are regularly available to the operator, and the repair may be completed without taking the control offline.

If yes, then corrective action is required. The triggering conditions and the actions taken to address it must be documented in a corrective action log entry in accordance with CGP Part 5.4.

If no, treat this work as a minor repair, and move on to Question 4.

Examples of controls in need of significant repairs:

- A portion of the embankment of a sediment basin has washed out, and the basin needs to be temporarily taken offline and dewatered to repair the embankment.
- A major replacement part is needed for a dewatering system.
- An entire diversion berm is significantly eroded and needs to be regraded.
- Inlet protection controls have failed, and sediment needs to be cleaned out of a storm sewer system.

Examples of controls in need of minor repairs:

- Erosion control matting does not completely cover an area of exposed soil but can be easily moved or stretched over to cover the exposed area.
- There is accumulated or tracked out sediment on the surface of a road that can be swept up.
- A filter sock does not completely cover a curb cut opening or storm sewer inlet but can be easily shifted to the proper position.
- Chemical containers are not under cover but there is space available in a covered area on site.
- A portion of the filter fabric has detached from the metal fencing of a super silt fence and can be easily re-attached.

<u>Question 4:</u> Has the same minor repair been made to the same control at the same location three or more times?

If yes, then corrective action is required, and the triggering conditions and the actions taken to address it must be documented in a corrective action log entry in accordance with CGP Part 5.4, unless the operator documents in the inspection report why the specific reoccurrence of the same problem should still be addressed as routine maintenance in accordance with CGP Part 2.1.4.c.ii.

If no, then routine maintenance is required in accordance with CGP Part 2.1.4.b.