

HOLD IT DOWN

Complying with the 2012 EPA Construction General Permit

By Jennifer Keyes

The 2012 National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges from Construction Activities (Construction General Permit or CGP) was issued on Feb. 16, 2012, by the U.S. Environmental Protection Agency (EPA). The 2012 CGP is the construction permit for sites where EPA has regulatory authority. Because many states model their own state general permits after the EPA CGP, however, it is important to know what this federal permit requires.

Numeric Turbidity Limit

Leading up to the finalization of the CGP, the primary topic of discussion among the regulatory community centered on the numeric limits outlined in the Construction and Development Effluent Limitation Guidance (C&D Rule) issued in December of 2009. The C&D rule and the draft 2012 CGP contained language defining numeric effluent limits on turbidity. The proposed turbidity limit in the C&D rule was challenged through

the court system. Through a series of court actions, the courts granted the motion to hold the matter in abeyance pending EPA consideration of the numeric limit and other remand issues. The final CGP was issued without a numeric turbidity limit because EPA is still collecting data to support the recalculation of the numeric limit. EPA has indicated that this permit will not be reopened; therefore, a numeric turbidity limit is not anticipated in the CGP until at least 2017, when the current CGP expires. However, it is important to note that several states have moved forward with their own numeric turbidity limits.

Significant Changes

The CGP was organized to address topics outlined in the C&D rule centered on effluent limitations in two main categories: effluent limitations for all construction sites and water quality-based effluent limitations for discharges into sensitive waters. The most significant changes are the following:

- EPA increased the review period from seven to 14 days for

construction operators seeking coverage under the 2012 CGP and increased the use of the electronic Notice of Intent process.

- There now is eligibility for emergency-related construction.
- No eligibility for coverage under the CGP in situations where cationic treatment chemicals will be used, unless specific authorization is provided by EPA.
- Conditional eligibility is offered for coverage under the CGP if the site discharges to sensitive waters. These include both impaired waters (TMDL or 303[d] listed) and waters with high water quality (Tier 2, 2.5 or 3 waters as defined by EPA).
- Sites need to maintain 50-ft buffer zones adjacent to surface waters. If a 50-ft buffer cannot be maintained, sediment removal efficiencies for the natural buffer must be calculated, and sediment controls that will have at least the same effectiveness as the buffer must be designed and utilized.
- Discharges must meet water quality-based effluent limits for sensitive waters (impaired and high water quality), and there are increased inspection and stabilization requirements for these waters.
- There are a number of new effluent guidelines for erosion and sediment controls for all construction sites.
- Post-storm inspections must occur after events of 0.25 in. or more.



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- New maintenance and corrective action schedules reflect aggressive timelines for maintenance and repair activities. If a minor repair is identified, it needs to be addressed by close of the next day. Sediment upgradient of inlet protection must be removed by the end of the same day on which it is found, or the end of the next day if that is not feasible.
- All stabilization must occur immediately on exposed portions of the site where earth-disturbing activities have permanently or temporarily ceased and will not resume for a period exceeding 14 days. The period limit is seven days if the disturbed area is on a steep slope (15% or greater), within the 50-ft buffer zone, or if discharges enter waters that have been identified as impaired for sediment or sediment-associated parameters such as nutrients.

Ways to Achieve Compliance

Knowledge. Knowing the permit requirements is crucial, especially as state and local permits change in response to the changes on the federal permit level. In many areas of the country, multiple permits are necessary to cover both federal and state requirements and local permits must be obtained to cover MS4s. Many MS4s have programs with additional requirements.

Budget. Project budgeting must account for storm water management and maintenance/stabilization activities.

Communication. The team must have a way to communicate. Field changes must be incorporated into the storm water pollution prevention plan (SWPPP), and the SWPPP must be able to change when conditions do. Successful practices often incorporate training, periodic meetings between team members and a flow chart establishing the company storm water roles and designating responsibilities.

Documentation. Even if a construction site appears to be in compliance, documentation must be in place. Make sure all storm water

inspections evaluate all of the required items, that they are being signed appropriately and that they are being performed when required.

An appropriate SWPPP for the site should be developed, using phasing if feasible and employing best management practices that are site-specific to topography, soils, rainfall and sensitive features; hiring qualified professionals to develop the plan and perform storm water inspections;

and establishing good communication between earthwork contractors, SWPPP developers, inspectors and the storm water team. SWS

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