



## Frequently Asked Questions

### Arizona's General Permit for Stormwater Discharges Associated with Construction Activities (Construction General Permit – 2013 CGP)

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#### Part 1 – Coverage under this General Permit

**1. How do I obtain a copy of the 2013 stormwater Construction General Permit (2013 CGP)?**

Access this link to obtain a copy of the 2013 CGP:

[http://www.azdeq.gov/environ/water/permits/download/2013\\_cgp.pdf](http://www.azdeq.gov/environ/water/permits/download/2013_cgp.pdf)

**2. What construction projects need coverage under the 2013 CGP?**

Construction sites that will disturb one or more acres of land, or will disturb less than one acre, but are part of a common plan of development or sale that will ultimately disturb one acre or more need CGP coverage. It includes all clearing, grading, excavation, and stockpiling activities that will result in the disturbance of one or more acres. The general permit is also applicable to stormwater discharges associated with support activities from temporary plants or operations set up to produce concrete, asphalt, or other materials exclusively for the permitted construction project. It also includes supporting activities such as storage of construction materials, vehicle and equipment storage and maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling). However, any

support activities must be exclusive to the construction project. If the support activity is associated with two or more construction projects and qualifies as an "industrial activity," then it is subject to the industrial stormwater permitting requirements under the Multi-Sector General Permit (MSGP).

"Disturbance" refers to exposed soil resulting from activities such as clearing, grading, and excavating. Construction activities can include construction, reconstruction, development, or demolition of residential houses, office buildings, industrial sites, roads, bridges, and infrastructure. It does not refer to construction activities unrelated to earth-disturbing activities such as interior remodeling, completion of interiors of structures, etc.

"Construction activity" 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, etc.) or 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).

**3. What is considered a "common plan of development?"**

A common plan of development is a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one plan. A 'plan' is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur. For more detail, refer to ADEQ's 2013 CGP Fact Sheet, p. 9 – 10.

**4. I think my construction activity is eligible for a waiver. How do I obtain a wavier?**

An erosivity wavier can only be obtained online via ADEQ's SMART NOI system. The SMART NOI system uses the start and end date of the construction activity along with site variables and calculates erosivity using the U.S. Department of Agriculture's, Revised Universal Soil Loss Equation (RUSLE). If the erosivity value is calculated to be less than 5, the user will be given the option of obtaining a waiver or pursuing permit coverage. Waivers must be electronically signed on the SMART NOI.

**5. What is involved with determining a site's potential for rainfall erosion?**

The Rainfall Erosivity (R) Factor is used to determine whether the potential for discharge is low enough to justify a waiver from the requirements. The R-Factor is one of six variables used by RUSLE to predict soil loss by erosion. RUSLE was originally used to measure soil loss from agricultural lands at various times of the year on a regional basis. The Rainfall Erosivity Factor waiver is time-sensitive and is dependent on what time of year the construction activity takes place, how long it lasts, and the expected rainfall and intensity during that time.

The exemption is void if the construction activity extends past the dates specified in the waiver certification. If the project continues beyond this date, the operator must obtain permit coverage. Another wavier for the same project is not allowed.

**6. The “exempt discharges” section (Part I.D.6, 2008 CGP) is missing from the new permit. Does this mean that if my construction site has any of (or only) these activities, I must now get coverage under the 2013 CGP?**

The discharges listed in the 2008 CGP are still exempt and do not need coverage under the 2013 CGP; an operator who performs the following activities is not required to seek coverage under the new permit:

- a. Construction projects that disturb less than one acre, unless part of a larger common plan of development or sale;
- b. Routine maintenance that disturbs less than five acres that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility or structure.
- c. Construction activities associated with the oil and gas exploration, production, processing, or treatment operations or transmission facilities (e.g., drilling site preparation, crude oil pipelines, etc). This exemption does not include construction associated with distribution lines that deliver natural gas to homes, businesses, or between substations, etc., and operate at relatively low pressures, or those pipelines that transport refined petroleum product and chemicals from refineries and chemical plants.
- d. Construction activities covered under an Erosivity Waiver (Part 1.6).

**7. Since the “exempt discharges” section (Part I.D.6, 2008 CGP) is not in the new permit, does this mean that any discharge from the above listed activities, regardless of the quality of the discharge, is also exempt?**

No. If found to be discharging above water quality standards, the operator will be required to obtain permit coverage in accordance with A.A.C. R18-9-A902(B)(8)(d) and 40 CFR 122.26(b)(15)(ii). In other words, for the discharges to remain exempt, operators must still operate their construction site in a manner that minimizes pollutants in the discharges. This may include effectively stabilizing the site after construction is completed. In the event discharges from the site may cause or contribute to non-attainment of a water quality standard, ADEQ may require the operator to obtain permit coverage.

Permittees should note that Part 1.2 of the 2013 CGP includes a new paragraph to allow coverage under this permit if the director invokes his authority under A.A.C. R18-9-A902(B)(8)(d).

## **Part 2 – Authorization under this General Permit**

**1. Who must apply for permit coverage?**

The “operator” of a regulated activity or discharge must apply for stormwater permit coverage. The operator of a construction activity is the party or parties that either individually or taken together meet the following two criteria: (1) they have operational control over the site specifications (including the ability to make modifications in specifications’ and (2) they have day-to-day operational control of those activities at the site necessary to ensure compliance with plan requirements and permit conditions.

For more detail about determining who is an operator, refer to the September 9, 1992 Federal Register, p. 41190 and ADEQ’s Fact Sheet for the 2013 CGP, Section II.2.1, p. 14 – 16.

**2. How do multiple operators obtain coverage?**

If more than one party meets the criteria described in FAQ #1, above, then each party must submit an NOI and obtain permit coverage. For example, if the site owner has operational control over site specifications and a general contractor has day-to-day operational control of site activities, then both parties are operators.

For more detail about determining who is an operator, refer to the September 9, 1992 Federal Register, p. 41190 and ADEQ's Fact Sheet for the 2013 CGP, Section II.2.1, p. 14 – 16.

**3. How do I fill out a 2013 CGP Notice of Intent (NOI) online?**

An operator may access the SMART NOI System (payment by Visa or MasterCard) and file an electronic NOI using this link: <https://az.gov/app/smartnoi/>

Or an operator may choose either to fill out a paper NOI (payment by check or money order required) which can be obtained at this link:

[http://www.azdeq.gov/enviro/water/permits/download/construction\\_noi.pdf](http://www.azdeq.gov/enviro/water/permits/download/construction_noi.pdf)

**4. How do I know if I need to submit a Stormwater Pollution Prevention Plan (SWPPP) for review by ADEQ?**

The operator must submit a copy of the SWPPP, pay the SWPPP review fee and the NOI fee (as applicable) to ADEQ if any of the following applies:

- Any portion of the construction site is located within 1/4 mile of a receiving water listed as impaired under section 303(d) of the Clean Water Act.
- Any portion of the construction site is located within 1/4 mile of a receiving water listed as an OAW in A.A.C. R18-11-112(G).
- ADEQ specifically requests a copy of the site SWPPP be submitted for department review. This may occur as part of the NOI evaluation, at anytime during permit coverage, in response to an inspection conducted by ADEQ, as part of the Notice of Termination (NOT), and for up to three years after the NOT is submitted.
- A Change of Operator (COR) form is submitted as a result of bankruptcy/ foreclosure.

**5. How do I find out which construction projects for my company have stormwater construction general permit coverage and which are terminated?**

To search ADEQ's construction general permit database, access this link:

<http://www.azdeq.gov/databases/azpdessearch.html>

Operators can search by company name, project name, project city, or AZCON number.

**6. How do I find the correct Latitude & Longitude for my site?**

There are many options available for determining the latitude and longitude for your construction site, including:

- ADEQ's SMART NOI (<https://az.gov/app/smartnoi/>) which includes a latitude / longitude tool which uses the street address
- ADEQ's online mapping system (<http://gisweb.azdeq.gov/arcgis/emaps/?topic=places>)

- ADEQ'S 2013 CGP Fact Sheet Section II.2.3, "Submitting the Notice of Intent" p. 17, describes additional tools

## **7. How do I complete the NOI Certification?**

To avoid possible delays in obtaining permit coverage, ADEQ encourages applicants to create and utilize the electronic signature feature on the SMART NOI website (<https://az.gov/app/smartnoi/>). Please note: operators must set up an e-signature account before completing their first NOI.

If the NOI is submitted online and signed later, a wet signature is required to comply with USEPA's Cross-Media Electronic Reporting Regulation (CROMERR). The original, signed NOI must be submitted to ADEQ (mail, delivery, drop off, etc.). The Department can no longer accept NOI forms via facsimile or scanned documents. For additional information about CROMERR, please visit USEPA's website at: <http://www.epa.gov/cromerr/>

Additional information about the Certificate of Authorization is available in ADEQ's 2013 CGP Fact Sheet, p. 17 – 18.

## **8. How can I obtain an electronic signature account?**

Operators should use ADEQ's SMART NOI system (<https://az.gov/app/smartnoi/>) to create an electronic signature account. After completing the required information to establish an account, click "Create Account." The operator will receive an email indicating the request is being processed. To complete the process, operators must provide their title. Only persons meeting the signatory requirements of Appendix B, Subsection 9(a) (a responsible corporate officer) of the permit can be authorized to sign an NOI or waiver.

## **9. I may need to revise my CGP Notice of Intent (NOI). Which revisions are allowed and which revisions are not allowed? Which changes do not require an NOI revision?**

Revisions to a CGP NOI are allowed to update some information such as: a mailing address, changing the name of the contact person, or revising the location of the SWPPP or SWPPP contact person.

Revisions that are not accepted include changing the latitude and longitude of the site or changing the acreage of the site after construction activities have begun. Also, a change or transfer of an NOI from one operator to another is not allowed. A change in operator requires that the new operator submit an NOI and obtain permit coverage (a new authorization number). After the new operator obtains permit coverage, the existing operator must submit a Notice of Termination (NOT), which must include the new operator's AZCON number (see A.A.C. R18-9-C904).

Some changes do not require an NOI revision, including: updating the signatory information on the NOI or revising the estimated start date and/or estimated completion date of a project.

ADEQ's SMART NOI System cannot process a revised NOI, because an original signature is required. Therefore, revised NOIs must be mailed or delivered to ADEQ. A fillable PDF version of the NOI may be downloaded and printed from this link:

[http://www.azdeq.gov/environ/water/permits/download/cgp\\_noi\\_form2013.pdf](http://www.azdeq.gov/environ/water/permits/download/cgp_noi_form2013.pdf)

There is no fee for submitting a revised NOI.

**10. How do I terminate permit coverage?**

The operator must meet one of six criteria identified on the NOT form before requesting termination (see also Part 2.5 of the 2013 CGP). To terminate permit coverage, submit a complete and accurate Notice of Termination (NOT) form to ADEQ. Operators may use the SMART NOI System to complete the NOT, print and sign the form and submit it to ADEQ. Coverage is terminated at midnight on the day ADEQ receives the complete and accurate NOT.

**11. Is it possible for another operator to take over my project?**

For construction projects where the operator changes, the new operator must submit an NOI and receive an authorization certificate before assuming operational control or commencing work on-site. This process is defined in the state of Arizona's rules, Arizona Administrative Code (A.A.C.) R18-9-C904. See also Appendix B, Subsection 19 of the permit. The "old" owner/ operator must submit an NOT within 30 days after the "new" operator has received the authorization certificate.

### **Part 3 – Effluent Limitations and Water Quality Standards Applicable to All Discharges from Construction Sites**

**1. My project was permitted under the 2008 CGP and will continue well past the implementation date of June 3 for the new 2013 CGP. Am I required to comply with any new control measure requirements in the 2013 CGP that were not required by the 2008 CGP?**

Construction projects that obtained coverage under the 2008 CGP, but continue to operate after June 3, 2013 are considered "ongoing construction projects" (see Part 2.3(3)(e)). Operators of these projects may not be required to install new or replace existing control measures if they determine it is infeasible to comply with a specific requirement in Part 3.1 for both of the following reasons:

- 1) The 2008 CGP did not require a particular control measure, whereas the 2013 CGP does; and
- 2) The operator is prevented from complying with the new permit requirement because of the nature / location of the earth disturbances at the site or the operator cannot comply owing to the manner in which control measures have already been installed or were already designed prior to October 1, 2013.

This is an exception to the normal permit transition process that only applies to projects where the new control measures were previously installed before June 3, 2013 or the new controls will be installed during the first 120 days (ending October 1, 2013) following the June 3 implementation date of the 2013 CGP. In addition, an operator would only be able to claim this exception for areas of the project that had already been subjected to earth-disturbing activities under the old permit.

The Department believes the most likely situation in which this exception will be applied is the requirement for a permanent 50 foot natural buffer adjacent to a perennial water body (Part 3.1.1.5). Operators may discover other situations where this exception may apply, but buffers along perennial water bodies will be the most common condition. Whatever the reason an operator may feel it is infeasible to comply, the permit requires that this exception, and the reasons supporting it, be documented in the SWPPP.

**2. What is the difference between erosion and sedimentation; and between erosion control and sediment control?**

Erosion is the process of wearing away and transporting material (typically sediment at a construction site) from one location to another. At Arizona construction sites, erosion is caused by water or wind. Sedimentation is the action of depositing the transported material at a new location. The combined actions of erosion and sedimentation can cause unpermitted discharges of pollutants from a construction site, if effective erosion and sediment controls are not in place.

Therefore, the 2013 CGP includes much detail about the need to control sediment discharges with erosion and sediment controls. Erosion controls include velocity dissipation devices, preserving natural vegetation, minimizing steep slopes, and other devices that control flowrates and volumes of stormwater. Erosion controls are the primary means of mitigating stormwater pollution. Sediment controls provide a necessary second line of defense to properly designed and installed erosion controls. Sediment controls are usually placed at the perimeter and include silt fences, berms, sediment basins and traps, wattles and storm sewer inlet covers. The permit requires stabilization at the end of the project as the permanent solution to erosion.

For a more thorough discussion of erosion and sediment control principles and some commonly used BMPs, please see USEPA's guidance "Developing Your Stormwater Pollution Prevention Plan – A Guide for Construction Sites":

<http://cfpub.epa.gov/npdes/stormwater/swppp.cfm>

**3. What is a control measure?**

Control measures, or BMPs, are the controls necessary to minimize, control or prohibit discharges of pollutants from construction sites. Control measures are devices (passive or active treatment technologies) used or actions taken to reduce or eliminate the discharge of pollutants to a water of the United States. Control measures are more effective when used in combination rather than in isolation.

The term "control measure" is defined in Appendix A as "any 'best management practices' (BMPs) or other method(s) (including effluent limitations) used to prevent or reduce the discharge of pollutants to waters of the United States." The term 'BMP' is often used to describe the controls and activities used to prevent stormwater pollution. In short, "control measure" and "BMPs" are practically interchangeable terms, but "BMP" is really a subset (albeit a large one) of "control measure". The 2013 CGP preferentially uses the term "control measure" throughout the permit.

Control measures for stormwater discharges must focus on pollution prevention because of the highly variable flow rates and volumes of stormwater. They are those methods, measures or practices used to prevent or reduce discharges and include structural and nonstructural BMPs and operation and maintenance procedures. Some examples include: silt fences, wattles and storm sewer inlet covers. Implementing control measures usually does not require highly engineered, complex treatment systems to control discharges.

Control measures may be applied before, during and after discharges to reduce or eliminate the introduction of pollutants into receiving waters. In addition, the term includes erosion and sediment control BMPs, stormwater conveyance, stormwater diversion, and treatment structures, and any procedure or facility used to minimize the exposure of pollutants to stormwater or to remove pollutants from stormwater.

For a more thorough discussion of some commonly used BMPs, please see USEPA's guidance "Developing Your Stormwater Pollution Prevention Plan – A Guide for Construction Sites": <http://cfpub.epa.gov/npdes/stormwater/swppp.cfm>

**4. Do I have flexibility in preparing the SWPPP and BMPs for my site?**

SWPPP requirements were designed to allow flexibility to develop the needed stormwater controls based on the specifics of the site. Some of the factors that might be considered 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 nearby water bodies; safety concerns of the stormwater controls (e.g., potential hazards of water in stormwater retention ponds to the safety of children; the potential of drawing birds to retention ponds and the hazards they pose to aircraft); and coordination with other site operators.

**5. Are some BMPs preferred (recommended) for small construction sites over large sites?**

Regardless of site size, control measures must be appropriately adapted for the site. Control measures used for minimizing the discharge of pollutants in stormwater from small construction sites may vary from those used for large sites owing to their physical limitations. However, all operators must comply with USEPA's non-numeric effluent limitation guidelines (40 CFR 450.21), which became effective February 1, 2011. Operators must minimize the discharge of pollutants from construction sites by using the various controls and practices described in the permit that are appropriate for the site. Both the Fact Sheet (p. 23 – 47) and the permit (Part 3.1) describe in detail what these non-numeric effluent limitations are and how to comply.

Most erosion and sediment controls require regular maintenance to operate properly. Accumulated sediments should be removed frequently and materials should be checked periodically for wear. Regular inspections by qualified personnel should be performed after major rain events, which will allow problem areas to be addressed expeditiously. 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.

Small sites may have less space for installing and maintaining certain BMPs. Structural BMPs such as mulching, inlet protection, or silt fences, and non-structural BMPs such as minimizing disturbance and good housekeeping, have shown to be efficient, cost effective, and versatile for small construction sites.

**6. Part 3.1.1.4(1) of the 2013 CGP states that "Perimeter controls are not required for individual lots within a construction site if stormwater from those lots is conveyed through internal streets or other conveyance structures to a sediment basin meeting the volume requirements of this section prior to discharge." Does the term "sediment basin" refer only to a temporary construction BMP (see Part 3.1.1.1(2)), but not a new or existing permanent retention basin that will remain post construction?**

No. Any retention basin that was previously constructed and is presently maintained by the operator is suitable for the purpose of collecting runoff from individual lots within a construction site where no perimeter controls are installed. Therefore, the operator could use either a temporary sediment basin, in accordance with Part 3.1.1.1(2), or an existing permanent retention basin that will remain post construction. As required by Part

3.1.1.1(2)(a), the operator must install and maintain sediment basin(s) and / or traps to manage run-on, runoff, and sediment discharge from the construction site. Part 3.1.1.1(2)(b) requires the operator to maintain the basin and remove accumulated sediment when design capacity has been reduced by 50%.

In conformance with the new statute ARS § 49-255(L) from SB1289, the 2013 CGP does not require perimeter controls (such as silt fences) for individual lots within a construction site if stormwater from those lots is conveyed through internal streets or other conveyance structures to a sediment basin that meets the volume requirements of the permit prior to discharge. It must be stressed, however, that such discharges must report to a sediment basin on a site that the operator controls, because the operator is responsible for maintaining that basin. However, the permit does not inhibit municipalities in any way from enacting stormwater ordinances or zoning restrictions to address potential concerns about increased sediment discharge into city streets prior to final stabilization.

- 7. Is there any limit to the distance between the construction site and retention basin used to collect sediment? For example, if an operator is building at the end of a previously completed street, and at the other end 1/2 mile away there is a retention basin, can they forego perimeter controls and allow their discharge to flow that entire distance?**

A.R.S. § 49-255.01(L)(4) states that construction operators are responsible for maintaining the volume capacity of a retention basin. If, in this example, the operator does not control the site where the sediment/ retention basin is located, then the operator would not be able to maintain it and instead would be required to build a retention basin located on land that is controlled by the operator (ostensibly closer to the construction site) to qualify for this provision.

- 8. Part 3.1.1.4(2) of the 2013 CGP requires that discharges from stockpiles of sediment or soil be controlled. "Stockpile" is a vague term that could mean almost anything.**

The 2013 CGP requires operators to provide erosion and sediment controls to stockpiles of material that have the potential to erode and be transported by stormwater runoff. Such piles might originate from the storage of topsoil, the excavation of underlying material, material brought onsite intended for use as fill, or other excavated materials transported to the site for use in construction purposes.

Even among excavated materials, not all would be subject to the requirement for erosion and sedimentation controls, because the coarser a material is the less likely it is to erode or be transported off-site. For example, washed and sized crushed stone for landscaping (as part of final stabilization) typically would not be a source of pollutants (sediment, debris, etc.). However, piles of crushed and processed materials, such as sand or a sand and gravel mix, intended for use in mixing grout or concrete, must have these controls around their perimeters if stored outside, because of their potential to erode during storm events. Such materials should also be covered; see Part 3.1.3.3(2)(a).

Size and location of the stockpiled material is also a factor when determining if these piles need erosion and sedimentation controls. Material swept into a pile on a concrete pad for later disposal, for instance, does not need controls placed around it. The operator should consider the practical aspects of placing controls around (or covering) a pile based on its potential to discharge during a storm event.

A construction site operator may determine that erosion and sediment controls are not necessary, however the operator must still follow the good housekeeping requirements in

Part 3.1.1.3 of the permit, as necessary. Building materials such as bricks, lumber, concrete blocks, etc. are examples.

**9. Are inlet protection controls required if operators' sites discharge through internal streets to a retention basin?**

Yes. Inlet protection controls are required when discharging via internal streets to protect the MS4 from receiving pollutants that may discharge to a water of the US. The permit does not allow removal of the inlet protection under normal conditions. The "Note" following Part 3.1.1.4(3) explains that inlet protection controls may be removed *only if* public safety is at risk. These would be extreme circumstances and must be documented in the SWPPP and the inspection report form. Operators must reevaluate the conditions under which the potential public harm was created and take measures to prevent this endangerment from happening again. A properly designed inlet protection control should not create flood conditions. The "bypass" provision in Appendix B.20

**10. Why and how should I protect a storm drain inlet and how are these devices maintained?**

The 2013 CGP requires operators to minimize sediment discharges from the site by requiring stormwater inlets to be protected with sediment controls during construction. These control measures reduce the amount of sediment-laden stormwater from entering storm drains, and ultimately being discharged to surface waters. Inlet protection measures should be kept in working condition so that they are effective at reducing the discharge of pollutants

Examples of inlet protection measures include fabric filters, sandbags, concrete blocks, and gravel barriers.

Proper maintenance includes cleaning, or removing and replacing, the protection measures as sediment accumulates, the filter becomes clogged, and/or performance is compromised. Where there is evidence of sediment accumulation adjacent to the inlet protection measure, the operator is advised to remove the deposited sediment by the end of the same work day in which it is found, or by the end of the following work day if removal by the same work day is not feasible.

**11. Are construction sites that are temporarily inactive/ unstaffed exempt from any of the requirements in Part 3 of the 2013 CGP?**

Operators are not exempt from installing or maintaining stormwater controls at their inactive / unstaffed construction sites. Regardless of the operational status of a construction site, operators are still required to "control discharges from the site as necessary to not cause or contribute to an exceedance of an applicable water quality standard" (Part 3.2.1 of the permit). In order to do this, operators must "comply with the control measures requirements included in Part 3 through site planning and designing, installing, and maintaining these controls" (Part 3.0, first paragraph).

In the case of inactive/ unstaffed sites, controlling discharges is usually best achieved through temporary stabilization (Part 3.1.2.1). Hence, an operator that anticipates a cessation of construction activities must temporarily or permanently stabilize all disturbed areas within 14 calendar days. The permit allows some exceptions to the 14 day requirement; complete details are provided in Part 3.1.2.1 of the permit.

Inactive/ unstaffed sites are granted flexibility in performing some inspection tasks and in fulfilling some documentation requirements. These are discussed in Part 4.2 (Inspection Schedule) and Part 6.3 (SWPPP Contents).

## 12. What are my options for meeting the "final stabilization" criteria?

In most cases, the operator can terminate CGP coverage as soon as the portion(s) of the project the operator is responsible for have achieved final stabilization. "Final Stabilization" means covering or maintaining existing cover over soil that reduces or minimizes erosion. It requires the use of vegetative and/or non-vegetative cover to prevent erosion and sediment loss in areas exposed through the construction process. Operators must meet one of the three conditions listed Part 3.1.2.2 of the 2013 CGP to satisfy "Final Stabilization".

Final stabilization is required only of areas that are not otherwise covered by some sort of structure. For the purpose of these discussions, "structure" is not only used in the traditional sense of "buildings," but also to refer to other things built on the ground whose intended purpose would require it to remain in a non-vegetated condition after construction has ended. Examples of "structures" include: buildings, parking lots, roads, gravel equipment pads, sidewalks, runways, etc. All other disturbed areas must be stabilized by either vegetative or non-vegetative practices, except for disturbed areas on agricultural land, (cropland, rangeland, and sivilculture) that will be returned to preexisting agricultural use conditions such as tilled land, grass rangeland and agricultural buffer strip.

The operator is only required to perform temporary stabilization in a completed housing development where the residential homeowner will be installing their own landscaping,

Vegetative final stabilization only requires getting to 70 percent of the "natural" vegetative cover and could include perennial vegetation such as grasses, ground covers, trees, shrubs, etc. If the natural cover is only 50 percent, then only 35 percent cover is required (70 percent of 50 percent). Non-vegetative stabilization could include rip-rap, gravel, gabions, etc. Impervious cover such as concrete or asphalt should be avoided as a final stabilization technique. Semi-permanent low or no maintenance erosion control practices combined with seeds that would take hold in the next growing season (e.g., properly secured seed impregnated erosion control mats, etc.) could also be used as final stabilization.

Section III.2 of the 2013 CGP Fact Sheet (p. 35 – 39) provides much more detail on the subjects of temporary and final stabilization.

## Part 4 – Inspections

### 1. Do inspectors need specific training to be considered “qualified personnel”?

No. Appendix A of the 2013 CGP defines qualified personnel as “those who are knowledgeable in the principles and practices of erosion and sediment controls and pollution prevention, who possess the skills to assess conditions at the construction site that could impact stormwater quality, and the skills to assess the effectiveness of any stormwater control measures selected to control the quality of stormwater discharges from the construction activity.” However, any training certificates or documentation should be included in the site's SWPPP.

**2. Can inspection reports be stored digitally on a computer onsite, or do hard-copies need to be inserted into the SWPPP?**

The permit specifies that inspection report forms must be completed and placed with the site SWPPP within 7 days after completing the inspection (Part 4.4). The inspection reports can be retained electronically, but must be available to ADEQ (or other authorized authority) for review at the time of an inspection.

**3. If a rain gauge is not utilized at the site, what other options are available for determining weather conditions and rainfall amounts?**

The operator may select a TV or radio news weather report, NOAA (National Oceanic and Atmospheric Administration) or other online weather information, or other reputable resource, but should use the same resource for duration of project to ensure consistent information is used. Page 49 – 50 of the Fact Sheet discusses this subject in more depth.

**4. When should inspections begin and end?**

Inspections should start as soon as earth disturbing activities begin at the site and end when a NOT is received, and coverage under the 2013 CGP has been terminated. Allowable inspections schedules / frequencies are listed in the 2013 CGP, Part 4.2.

**5. Where can I find the inspection report form that is provided by ADEQ?**

[http://www.azdeq.gov/environ/water/permits/download/cgp\\_inspection\\_form2013.pdf](http://www.azdeq.gov/environ/water/permits/download/cgp_inspection_form2013.pdf)

**6. Is the inspection report form provided by ADEQ mandatory or can I use my own?**

The operator can develop an alternate report form, as long as it incorporates all the inspection-related requirements of 2013 CGP. Whatever format is used, the inspection report form must provide a consistent means of documenting the results of each inspection, which may be in the form of databases or standardized forms.

**7. Is the inspector's signature required on the Inspection Report form?**

The permit allows the operator to hire another person (i.e., a contractor or subcontractor) to conduct site inspections, if they choose. In this case, yes, the inspector is required to sign the Inspection Report form (Section VI.A of ADEQ's form). So, when a third party conducts the inspections, both the inspector and the operator are required to sign the certification statements in the inspection form (Section VI.A & B of ADEQ's form).

If the operator conducted the inspection, only the operator's certification statement must be signed *by the operator* (Section VI.B of ADEQ's form).

In conclusion, the operator is always required to sign the operator's certification statement (Section VI.B of ADEQ's form), regardless of who conducted the inspection, because he is certifying that he is aware of the results and has taken corrective action(s) where applicable, or other remedies, to correct deficiencies found during the inspection. Signatory requirements are specified in 40 CFR 122.22 and included in Appendix B(9) of the permit. The instructions accompanying ADEQ's inspection form also provide additional information.

**8. Are the construction site discharge points required to be assessed during site inspections?**

Yes. The operator is required to identify all discharge points at the construction site for which they have permit coverage. As part of each inspection, every discharge point must be inspected and documented. If a stormwater (or allowable non-stormwater) discharge occurs at the time of inspection, the inspector should observe and document the physical characteristics of the discharge, including color, odor, floating, settled, or suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollutants, and document whether or not control measures are functioning effectively.

In instances where there is no discharge at the time of the inspection, the inspector should assess the discharge points for previous discharges (*i.e.*, evidence of erosion, sedimentation, trash, debris, and other pollutants).

## **Part 5 – Corrective Actions**

**1. What is a corrective action?**

Corrective actions are actions the operator takes in response to exceedance(s) of surface water quality standards resulting from the failure or inadequacy of any control measure(s). Routine maintenance or repairs do not constitute a corrective action.

**2. What is the difference between "corrective action" and "maintenance"?**

Corrective actions are a higher level of response the operator takes when any control measure has failed to meet the conditions of Part 3. Routine maintenance or repairs do not constitute a corrective action.

For example, in the case of failure of poorly designed, improperly placed or incorrectly installed control measures or systems of controls, ADEQ would consider the replacement a corrective action. This is because it is not meeting the requirements of Part 3.1 – not preventing or reducing the discharge of pollutants – or the facility's discharge is causing or contributing to an exceedance of an applicable water quality standard. A failure can be an actual failure of stormwater controls; *i.e.*, the occurrence of a prohibited discharge, or can be adjudged during site inspection as likely to fail.

If a control measure or system of controls "wears out" or is otherwise rendered less effective or ineffective due to normal use or exposure to the elements, such as degradation from sunlight or damage from heavy equipment, repair/replacement is considered maintenance.

**3. When is a corrective action required?**

If a necessary stormwater control was never installed, was installed incorrectly, or not in accordance with the requirements of this permit; or a prohibited discharge is occurring or has occurred; or site inspection finds that modifications to the control measures are necessary to meet the requirements of this permit.

**4. How soon must I implement a corrective action?**

To the extent practicable, operators must take all reasonable steps to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational on the same day the condition(s) requiring corrective action is discovered. This includes

cleaning up any contaminated surfaces so that the material will not discharge in subsequent storm events.

**5. Is there a deadline for corrective actions?**

Yes. Any control measures or repairs required must be made operational, or completed, by no later than 7 calendar days from the time of discovery. More information about complying with corrective action deadlines is found in Part 5.2 of the permit and Section V.2 of the Fact Sheet.

**6. What if the problem with a control measure isn't discovered until late in the work day?**

Generally, on the same day a condition requiring corrective action is discovered the operator must take all reasonable steps to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational.

If a problem is identified at a time in the work day when it is too late to initiate corrective action, the corrective action must be initiated on the following work day, unless the condition poses imminent endangerment to human health or the environment, in which case the operator must take immediate action.

**7. Does a corrective action reverse a permit violation?**

No. If the condition needing correcting constitutes a permit violation, correcting it does not remove the original violation. However, enforcement authorities will consider the promptness and effectiveness of any corrective action taken in determining an appropriate response. In addition, failing to take corrective action in accordance with this Part is an additional permit violation.

**8. How do I document a corrective action?**

For each corrective action, the operator must document the details of the corrective action in the inspection report.

**9. Does ADEQ require every operator to submit a copy of their corrective action reports to the Department?**

No. These reports must be maintained in the operator's records (specifically in the SWPPP) but do not need to be provided to ADEQ except in the following instances:

- as requested (by ADEQ)
- if the site discharges to an OAW or Impaired Water

In either case, the corrective action reports, which are part of the Inspection and Corrective Action Report form, must be submitted with the NOT.

If the project's duration is greater than a year, the corrective action report must be submitted annually with the Discharge Monitoring Report (DMR) form to ADEQ.

The operator must retain a copy of the inspection report documenting the corrective action(s) onsite with the SWPPP.

Operators should note, however, that the requirement to submit a DMR is limited only to sites that are required to monitor, per Part 7. Therefore, operators who are able to make the demonstrations in Part 7 to eliminate monitoring from their site are not required to submit corrective actions reports. However, operators must also be aware that, as with all

construction sites, they are still required to document in the SWPPP the corrective actions taken.

## Part 6 – Stormwater Pollution Prevention Plan (SWPPP) Preparation

### 1. Do I have to submit a copy of my SWPPP to ADEQ with the NOI?

Ordinarily no, unless any part of the construction site is located within 1/4 mile of a receiving water listed as impaired or as an outstanding Arizona water (OAW) (see Part 1.5.3 and 1.5.4). In those cases you would need to submit a copy of the SWPPP with the NOI, along with the associated review fee (in addition to the NOI fee).

### 2. Part 6.1.5 states that operating under an incomplete or inadequate SWPPP is a violation of the permit. Since I am not required to submit my SWPPP to ADEQ for review, how will I know if my SWPPP is complete and/or adequate?

Responsibility falls to the operator to ensure the SWPPP is complete and adequate (*i.e.*, that it meets all provisions of the CGP). ADEQ has developed a 2013 CGP SWPPP checklist (<http://www.azdeq.gov/environ/water/permits/cgp.html>) with this in mind. All operators are encouraged to use it, in conjunction with the permit, when preparing their SWPPPs. Operators are also encouraged to contact ADEQ at any time with specific questions regarding their SWPPP. Only those with construction sites that are located within 1/4 mile of an impaired water or outstanding Arizona water are required to submit their SWPPPs to ADEQ for review. However, an operator always has the option to request that ADEQ review the SWPPP, in which case the associated review fee would apply.

However, if, at any time during the course of the construction project, ADEQ determines the SWPPP is deficient, the Department will notify the operator of the deficiencies. ADEQ may become aware of deficiencies in the SWPPP through a variety of ways, including reviews of SWPPPs for projects located within 1/4 mile of an impaired water or OAW; a site inspection; or a reported complaint. The operator must revise the SWPPP in response to ADEQ's notice of deficiency within 15 calendar days.

### 3. My company is five days into a construction project that is responding to a recent flood emergency. Part 6.1.6 requires documentation of the cause of the emergency and information substantiating its occurrence, etc. But Part 2.4 indicates emergency-related construction projects are authorized immediately without preparation of a SWPPP or submittal of a NOI. Where/how do I provide the documentation called for in Part 6.1.6?

For emergency-related construction activities, the operator must prepare a SWPPP and submit a NOI if the activity continues past 30 calendar days after commencing construction activities. The items required in Part 6.1.6 would need to be included in the SWPPP at that time, if the project continues that long.

### 4. Do I need to address “allowable non-stormwater discharges” for my project in my SWPPP? The 2008 CGP required it in Part I.C.2, but Part 1.3.2 of the 2013 CGP does not mention it.

Yes, allowable non-stormwater discharges must be addressed in the SWPPP. Part 1.3.2 states the operator shall install appropriate control measures to reduce or eliminate

pollutants from non-stormwater discharges. All control measures must be described in the SWPPP (Part 6.3.8). Other SWPPP-related requirements for non-stormwater discharges are included in Part 6.3.6.(j)(i), in the SWPPP Site Map(s) section; Part 6.3.8, Control Measures to be used During Construction Activity; and Part 6.3.9, Summary of Potential Pollutant Sources.

**5. Am I allowed to change the schedule of my construction activities after I have written the “Sequence and Estimated Dates of Construction Activities” required by Part 6.3.4?**

Plans often change due to unforeseen circumstances or for other reasons; this requirement is not meant to force the operator into an inflexible sequence of construction activities. Therefore, when departures from initial projections are necessary, this should be documented in the SWPPP.

The purpose for creating a projection of documentation of the sequencing of construction activities is to help operators gain a better understanding of the site runoff characteristics throughout all phases of construction activity. This type of planning is intended to limit the amount of land disturbed at one time and limit the exposure of unprotected soils through stabilization. This, in turn, reduces the amount of sediment that may be discharged from the construction site. In short, this projection of construction sequencing is designed to help operators plan for the types of stormwater control measures necessary to meet the effluent limitations in the permit.

**6. Where can I find lists or maps of impaired waters and Outstanding Arizona Waters (OAWs) on the internet?**

There are two lists for impaired waters. They are available at [http://www.azdeq.gov/environ/water/assessment/download/not\\_attaining\\_waters.pdf](http://www.azdeq.gov/environ/water/assessment/download/not_attaining_waters.pdf) (Category 4) and [http://www.azdeq.gov/environ/water/assessment/download/impaired\\_waters.pdf](http://www.azdeq.gov/environ/water/assessment/download/impaired_waters.pdf) (Category 5). Impaired waters include both Category 4 and Category 5, so you should check your watershed's section in each list.

A list of OAWs is available at <http://www.azdeq.gov/environ/water/permits/download/oaw.pdf>

The ADEQ web site provides interactive GIS eMaps for Arizona Impaired Waters (<http://gisweb.azdeq.gov/arcgis/emaps/?topic=impaired>)

and OAWs (<http://gisweb.azdeq.gov/arcgis/emaps/?topic=oaw>).

NOTE: Operators may also determine whether their sites are located within 1/4 mile of any impaired waters or OAWs by using ADEQ's Smart NOI system..

**7. What are “cationic treatment chemicals” (Part 6.3.10)?**

Cationic treatment chemicals are defined in Appendix A of the 2013 CGP as “polymers, flocculants, or other chemicals that contain an overall positive charge ... [that] are used to reduce turbidity in stormwater discharges by chemically bonding to the overall negative charge of suspended silts and other soil materials and causing them to bind together and settle out.”

Operators who plan to use cationic treatment chemicals (as defined in Appendix A) must comply with Parts 3.1.1.1(2)(c) and 6.3(10) of the permit. The use of polymers, flocculants,

or other treatment chemicals to control turbidity in sediment basins at the construction site must be used in such a manner that it allows adequate settling time and minimizes or eliminates these chemicals in the discharge. Operators must document the use of such chemicals and the supporting rationale for their choice in the SWPPP (Part 6.3(10)).

Pages 27 and 28 of the 2013 CGP Fact Sheet contain recommendations to operators for the use of these chemicals that will significantly reduce the potential for accidental releases, over-application and residual chemical being discharged. Further information is also available in USEPA's Fact Sheet for their 2012 CGP, which devotes considerable space to the discussion of the selection, proper use and the toxicity problems with cationic treatment chemicals.

Other potential discharges of polymers from sources other than direct water treatment may be possible. These potential pollutants must also be included in the SWPPP, if used at the site. The requirements to mitigate pollutants in the discharge apply to all water treatment chemicals including both anionic and cationic. As indicated above, there are additional requirements for the use of cationic chemicals owing to the increased environmental toxicity.

**8. What circumstances or events would trigger the requirement to update/modify my SWPPP?**

See Part 6.5. The SWPPP must be revised whenever a change in design, construction method, operation, maintenance procedure, etc., may affect the discharge of pollutants to surface waters either directly or by way of a conveyance (such as an MS4). The SWPPP must also be amended if inspections or investigations by site staff or by local, state or federal officials determine that the SWPPP is ineffective in eliminating or significantly minimizing pollutants in storm water discharges from the construction site. Specifically, operators are required to modify the SWPPP, including the site map(s), in response to any of the conditions listed in Part 6.5.2.

All necessary modifications to the SWPPP must be made within 7 calendar days following the inspection or the occurrence of the pertinent condition(s).

**9. Must I still maintain a SWPPP if my construction site becomes inactive and unstaffed?**

Yes, although the documentation requirements are slightly different and affect the requirements to conduct inspections (see Part 4.2(4)). A site that is inactive and unstaffed means there is no construction activity anticipated for at least six months. The operator must maintain a statement in the SWPPP indicating that the site is inactive and unstaffed. The statement must be signed and certified in accordance with Appendix B, Subsection 9 of the permit. Operators with sites that are inactive and unstaffed are not required to maintain a copy of the SWPPP on site, it must be locally available (*i.e.*, in Arizona) and must be on site when inspections required by Part 4 are conducted. Inspection frequencies at inactive and unstaffed sites generally are reduced, except if the site is located within 1/4 mile of an impaired water or OAW. These sites are not eligible for a reduced inspection frequency unless they have undergone temporary stabilization.

If the operator is notified by ADEQ, USEPA, or other Federal, State or local authority having stormwater program authority that they will conduct a regulatory inspection of the inactive/ unstaffed site, the SWPPP shall be made available within 48 hours of the request.

**10. A private citizen has asked for a copy of my SWPPP. How should I handle that?**

A member of the public who wishes to review all or portions of an operator's SWPPP must first contact ADEQ in writing. The Department will, in turn, contact the operator who must provide the SWPPP to ADEQ within 7 calendar days of the Department's request. The means for providing ADEQ with a copy is up to the operator (*i.e.*, electronic or hard copy). ADEQ will provide access to the SWPPP with the exception of any qualifying confidential information (as defined in A.R.S. § 49-205). The copy the operator sends to ADEQ will remain with the Department. All photocopying expenses made from that copy are the responsibility of the person requesting the SWPPP.

**Part 7 – Stormwater Monitoring****1. How do I determine if my site is within 1/4 mile of an impaired water or OAW?**

The SMART NOI has an interactive mapping tool that will make the determination based on the input of the construction site's latitude and longitude.

**2. What happens if the monitoring plan I submitted with my SWPPP for ADEQ approval is not approved? How long do I have to fix it?**

Operators will receive correspondence from the Department that describes all deficiencies and a due date by which the revisions should be submitted (typically 30 days) for approval. When a monitoring plan is required (typically for sites that are located within 1/4 mile of an impaired water or OAW) operators should expect the Department to request revisions to the monitoring plan, including the sampling and analysis plan. After ADEQ reviews the revised SWPPP, including the revised monitoring plan, if ADEQ approves, an authorization number will be issued, provided that all other deficiencies have been met.

**3. What justifications are possible for not having a monitoring program, if my construction site is located within 1/4 mile of an OAW or impaired water?**

An operator is only required to implement an analytical monitoring program for those areas of the construction site that discharge directly to or within 1/4 mile of an OAW or impaired water. Monitoring may not be required if an operator makes an acceptable demonstration to ADEQ that either there is no potential for a discharge to reach the waterbody of concern or in the case of an impaired water, the pollutant of concern is not expected to be in the discharge.

Remember, there may be potential for other pollutants on-site besides those causing the impairment, including metals, chlorine, oil, gasoline, pesticides, etc. Some of these pollutants may not be additions to the construction site, but may be in the on-site soils and prone to increased discharge during earth disturbances (in particular metals and pesticides).

An operator could demonstrate that sufficient on-site storage exists and will be maintained, to contain the volume of stormwater runoff generated from the site, based on the local 100 year/ 2 hour storm event. This demonstration requires all calculations must be preformed by an Arizona registered professional engineer, geologist or landscape architect (A.R.S. § 32-144).

Other demonstrations might include: that the discharge point is located downstream of the OAW or impaired reach of the water; or that the discharge does not have the potential, as

a construction site, to be a significant source of pollutants. For any portion of the construction site that is located within 1/4 mile of an impaired water and there is no potential for the site's runoff to contain the pollutant(s) of concern, analytical monitoring for that parameter(s) would not be required.

**4. How do I know what pollutants may be on-site?**

The operator must consider all on-site activities, including all chemicals, equipment, and materials that will be present at the site for construction and consider the potential for on-site pollutants in the soils in all areas to be disturbed. For further information about potential pollutant sources, see Section VI.3.9 of the Fact Sheet, p. 62-63.

**5. Where do I find the acceptable analytical methods that can be used and specified in the monitoring program for each parameter, and a list of applicable surface water quality standards (SWQS)?**

All laboratory analyses shall be conducted according to test procedures specified in 40 CFR Part 136, unless other test procedures have been specified in this general permit or are approved by the Arizona Department of Health Services or ADEQ. The SWQS can be referenced in the Arizona Administrative Code Title 18, Chapter 11, Article 1, *Water Quality Standards for Surface Waters*.

**6. Is there a minimum distance of separation required between the upstream and downstream samples of the discharge point when sampling for turbidity?**

When performing instream monitoring, the operator should consider site conditions to determine appropriate distance between upstream and downstream sample points. Factors to consider may include discharge volume, depth and width of the receiving water, etc.

For projects discharging to a waterbody listed as impaired, the operator must perform analytical monitoring (water quality sampling) for the parameters for which it is impaired. Where the construction site is adjacent to or otherwise discharges directly to an OAW, the operator must sample for turbidity both immediately upstream and downstream of each discharge point. If the site discharges to the OAW at two or more locations, the operator may sample at one upstream discharge point and the other at the farthest downstream discharge point in the stream.

Operators discharging into waterbodies that are listed for turbidity or suspended sediment concentration on the most recent USEPA-approved 303(d) list or that have an established TMDL for turbidity or suspended sediment concentration must collect and analyze samples for turbidity in stormwater runoff upstream and downstream of the construction site and compare the results.

Construction sites must be monitored for turbidity that discharge to or within 1/4 mile of an OAW. The operator shall compare turbidity values from the two instream locations. If there is a 25% or greater increase at the downstream monitoring location, turbidity of the stormwater discharge(s) from the construction site shall be measured to determine the site's contribution. The operator shall evaluate and replace, maintain, or install additional control measures as necessary to minimize sediment discharge.

## **Part 8 – Fees, Reporting and Recordkeeping**

### **1. Are there fees associated with the 2013 CGP?**

Yes. Effective July 1, 2011, the Arizona Pollutant Discharge Elimination System (AZPDES) became a fee-based program, as established in state rules (A.A.C. R18-14-109). An initial fee is required to be paid at the time the operator submits a NOI. Additionally, an annual fee of the same amount is assessed each subsequent year until the operator submits a Notice of Termination (NOT). The annual fee is based on the acreage of the site and due each year on the anniversary of the authorization issue date.

The fee is based on the amount of acreage disturbed, as follows:

- Less than or equal to 1 acre = \$250\*
- Greater than 1 acre but less than or equal to 50 acres = \$350
- Greater than 50 acres = \$500
- Stormwater Pollution Prevention Plan Review = \$1,000
- Waiver = \$750

\* An NOI is necessary if the project is part of a greater plan of development or sale that ultimately totals 1 acre or more.

### **2. Can I submit my records and reports electronically?**

In most cases, yes, if the information is posted on the website at <http://www.azdeq.gov/enviro/water/permits/cgp.html>, or made available by public notice. Operators with format questions or problems with electronic submittal should contact the Stormwater Permits Unit at (602) 771-4508.

### **3. How long am I required to retain analytical monitoring records as part of the SWPPP?**

The records must be kept for a minimum of three years from the termination date.