



2016 Construction General Permit

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1.0 FORMS

1.1 General

1.1.1 Where do I find the Construction General Permit (CGP) forms and instructions?

- Paper Copy Submittals: PDFs of all storm water form can be downloaded on the APDES Storm Water Forms webpage at: <http://dec.alaska.gov/water/wnpssc/stormwater/Forms.htm>
- Electronic Submittals: Electronic Notice of Intent (eNOI) system can be found at <http://dec.alaska.gov/water/wnpssc/stormwater/APDESeNOI.html>. Step-by-Step Instructions are provided in the “Quick Links” box in the upper right side of the webpage.

1.1.2 Who should sign the forms?

In accordance with 18 AAC 83.385, any application for coverage under this permit must be signed as follows:

- For a corporation, by a responsible corporate officer; a responsible corporate officer means:
 - 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
 - The manager of one or more manufacturing, production, or operating facilities, if
 - The manager is authorized to make management decisions that 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 statutes 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
 - Authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- For a partnership or sole proprietorship, by the general partner or the proprietor, respectively;
- For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official; a principal executive officer of an agency means:
 - The chief executive officer of the agency; or
 - A senior executive officer having responsibility for the overall operations of a principal geographic unit or division of the agency.

1.1.3 What is the fastest method for submitting forms?

Electronic forms submitted and paid for via DEC’s [Online Application System \(OASys\)](#) will likely be processed more quickly than form submitted via paper copy.

1.2 Notices of Intent

1.2.1 For projects that require multiple Notice of Intents (NOI’s), is a fee required for each NOI?

No. Only one fee is required for a given site/facility even though there may be several NOIs submitted for the site.

1.2.2 Is a billing address required to be filled in if payment is being submitted with a different NOI?

Yes. The [eNOI system](#) is used for a range of permits and a billing address is required.

1.2.3 I do not know my receiving waters. Can I put ‘none’?

No, if you are not discharging to any waters of the United States, you do not need a permit. It is better to list the nearest water body. If the nearest water body is unnamed, you can list ‘unnamed waters’, or ‘unnamed wetlands’. Please indicate whether the discharge is to unnamed freshwaters or unknown salt waters.

1.2.4 What do I put for ‘city’ if my site location is not in a city?

Enter the nearest city to your project. You can be more detailed in street location. For example, the project is 20 miles south of Fairbanks. Enter Fairbanks for the city, and 20 miles south of Fairbanks on [street name] at milepost [number] for the street address.

1.2.5 Must the eNOI certifier be the same person who signs the eNOI?

The person listed as the certifier must be the signee in either a paper or electronic NOI submission. Be sure that the person signing the NOI has the proper authorization as outlined in the [General Permit – See Appendix A Part 1.12](#).

1.3 Modifications

1.3.1 When does a change in my original NOI require filing a modification?

Permittees must file a NOI Modification form to update or correct the following information within 30 calendar days of the change:

- Owner/Operator address and contact information;
- Site information;
- Estimated start or end dates,
- Number of acres to be disturbed;
- Change in or decision to use (or not use) treatment chemicals;
- SWPPP contact information or viewing location.

1.3.2 Continuation of expired permit in accordance with permit Part 2.6. Is there a fee to file a NOI modification?

No fee is required for the modification.

1.3.3 What changes to my original NOI would require me to file a Notice of Termination (NOT) and submit a new NOI instead of submitting an NOI Modification?

Permittees must file a NOT form when the operator has changed. The new owner/operator must file a new NOI to obtain coverage under the CGP. Coverage is not transferrable.

1.4 Notices of Termination (NOT)

1.4.1 When does a Notice of Termination (NOT) become effective?

Permit coverage will terminate at midnight of the day the NOT is signed.

2.0 LARGER COMMON PLAN OF DEVELOPMENT

2.1 What is meant by “larger common plan of development”?

A “larger common plan of development or sale” is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. For example, if a developer buys a 20-acre lot and builds roads, installs pipes, and runs electricity with the intention of constructing homes or other structures sometime in the future, this would be considered a larger common plan of development or sale. If the land is parceled off or sold, and construction occurs on plots that are less than one acre by separate, independent builders, this activity still would be subject to storm water permitting requirements if the smaller plots were included on the original site plan.

2.2 What is the definition of “common plan”?

“Common plan” 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. As a subcontractor, it is unlikely you will require permit coverage.

2.3 How can I tell if my project is part of a “larger 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 six ½-acre residential lots in a 10-acre development or are putting in a fast food restaurant on a ¾-acre pad that is part of a 20 acre retail center) you need permit coverage. 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 is no ongoing construction activities (i.e., all areas are either undisturbed or have been finally stabilized), you may 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” permit coverage may still be required, but you can treat your project as part of a “small” construction activity and may 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 may be treated as part of a less than one acre development and no permit would be required.

2.4 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 plan of development. For example, after a house is built and occupied, any future construction on that lot (e.g., reconstructing after fire, adding a pool or parking area, etc.), would stand alone as a new “common plan” for purposes of calculating acreage disturbed to determine if a permit was required. This would also apply to similar situations at an industrial facility, such as adding new buildings, a pipeline, new wastewater treatment facility, etc. that was not part of the original plan.

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

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 may consider the “conceptual” phases of development to be separate “common plans” provided the periods of construction for the physically interconnected phases will not overlap.

2.6 Are two projects on contiguous parcels, managed and operated by two separate entities, considered to be part of a larger common plan of development or sale?

If there is documentation that the two projects operate separately, they would be considered two separate developments, rather than a larger common plan of development or sale. However, if there is documentation or an announcement (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, etc.) that the projects operated as a single unit of development they would be considered part of a larger common plan of development or sale.

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

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

Where discrete construction projects within a larger common plan of development or sale are located ¼ mile or more 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. If a utility company was constructing new trunk lines off an existing transmission line to serve separate residential subdivisions located more than ¼-mile apart, the two trunk line projects could be considered to be separate projects.

2.8 If a developer has 4 acres and sells off a ½ acre lot to another developer, does the new developer need a permit even though that lot is less than 1 acre?

Yes, because the ½-acre lot is part of a larger common plan of development or sale that is larger than 1 acre.

2.9 If a contractor has permit coverage as part of a larger common plan of development or sale, does a Notice of Termination (NOT) need to be filed by this individual operator when the project is completed?

A NOT needs to be filed for each permitted section of a larger common plan of development or sale corresponding to the NOIs that were submitted for that project.

3.0 STORM WATER POLLUTION PREVENTION PLANS (SWPPP)

3.1 Does stating that ‘appropriate BMPs will be used’ sufficient for my SWPPP?

No. The SWPPP template can assist in determining the information required for each BMP. It can be found at <http://dec.alaska.gov/water/wnpspc/stormwater/Guidance.html>

3.2 What is the preferred format for latitude and longitude?

Degrees in decimal fractions.

3.3 If I attach my SWPPP electronically with my eNOI application, do I need to submit a paper copy to DEC?

No, an electronic copy of your SWPPP is preferable to a hard copy.

3.4 When must I submit either an electronic or paper SWPPP to DEC?

The operator developing a project that disturbs five or more acres of land and where the project is located outside the area of an APDES permitted MS4 must submit a copy of the SWPPP to ADEC at the time the NOI is filed or within seven calendar days of filing the paper NOI form. Additional SWPPP submittal requirements for projects located inside the area of an APDES permitted MS4 can be found at: [CGP SWPPP Submittal Requirements](#).

4.0 ANTIDegradation ANALYSIS/OUTSTANDING NATURAL RESOURCE WATERS

4.1 What waterbodies in Alaska qualify as a high quality water that constitutes an Outstanding Natural Resource Water (ONRW)?

Currently the state has not developed an official Outstanding Natural Resource Water, ONRW, or Tier 3 waterbody list in accordance with the state’s Antidegradation policy found at 18 AAC 70.015.

4.2 What information is required to be included in the site-specific antidegradation analysis plan?

The four primary components listed below should be covered in a site-specific antidegradation analysis plan which can be submitted as an Appendix in the SWPPP or a separate report. The antidegradation plan should either directly cover the items below or reference the appropriate sections of the SWPPP which provides the necessary social and economic justification as well as the incorporation of BMPs to protect water quality.

- Describe the important economic or social development the project will bring to the area.
- Describe how the required visual monitoring per Part 7.4 for linear projects will be conducted as well as inspections per part 6.0.
- Describe how the current receiving stream’s existing uses and water quality criteria for turbidity and sediment will be achieved.

- The submitted SWPPP adequately addressed items 1-3 above and contained control measures as listed in Table C-9 of the CGP Fact Sheet to provide the Highest Statutory and Regulatory Requirements for the control of storm water runoff.

5.0 EXEMPTIONS/EXCLUSIONS FROM PERMIT COVERAGE

5.1 Can owner/operators conduct repairs in response to a disaster if it is not declared as a “disaster emergency”?

Yes. Discharges from construction activities conducted in response to a disaster (as defined in Alaska Statute 26.33.900) are conditionally authorized provided that permittees implement control measures to the extent practicable and submit a NOI and SWPPP (if 5 acres or greater of disturbance) to DEC within 30 calendar days of initiating emergency repairs.

5.2 Do oil and gas related projects require authorization under the CGP?

The oil and gas industry is exempt from federal NPDES storm water permit, except in very limited instances. Clean Water Act Section 402(1)(2) states that permits are not required for discharges of uncontaminated stormwater runoff from oil and gas exploration, production, processing, treatment operations, or transmission facilities unless the facility’s discharge is entirely composed of stormwater and has had a discharge of a reportable quantity of oil or hazardous materials at any time since November 16, 1987. Only oil and gas facilities that have had a discharge of a reportable quantity or release or that contribute pollutants which have the potential to violate a water quality standard are required to obtain an APDES permit authorization for stormwater discharges. Refer to the DEC, APDES, Oil and Gas webpage for additional information and permitting requirements: <http://dec.alaska.gov/water/wwdp/oilgas/index.htm>.

5.3 Do routine maintenance projects require authorization under the CGP?

No. Depending on the nature of the maintenance project, it may not require submission of an NOI under the CGP. To be considered a maintenance projects, the project must maintain the original line and grade, hydraulic capacity of conveyance channels, or original purpose of the site. Maintenance projects typically involve the repair, rehabilitation, or replacement of existing structures or facilities with no new ground disturbance beyond the original footprint. Maintenance projects may involve minor deviations in the size, configuration, or alignment of the structure or facility. Such activities may include mowing or clearing vegetation without disturbing the vegetative mat, repaving a road with no surface expansion or disturbance of surrounding soils, replacing a bridge without widening it, or replace a culvert with one of the same size and composition.

6.0 INTERFACE WITH OTHER PERMITTING REQUIREMENTS

6.1 Multi-Sector General Permit

6.1.1 Are material sites covered under the CGP or MSGP?

Material sites that are commercial operations serving multiple unrelated construction projects by different permittees should be covered under the MSGP instead of the CGP.

6.2 DEC Excavation Dewatering General Permit

6.2.1 When do I need coverage under the CGP and Excavation Dewatering General Permit?

Excavation dewatering activities that occur within 1,500 feet of an “Active DEC-identified contaminated site” or “contaminated groundwater plume” require additional coverage under the 2014 Excavation Dewatering General Permit. Since the CGP only authorizes discharges of uncontaminated groundwater, the additional authorization will assure that dewatering activities conducted at a construction projects do not impact any known contaminated sites or plumes. This is the only situation where coverage under two permits that authorize excavation dewatering discharges will be required on the same project.

6.3 U.S. Army Corps of Engineers Section 404

6.3.1 The CGP does not authorize discharges of dredged or fill material into waters of the U.S. requiring federal authorization through the U.S. Army Corps of Engineers Clean Water Act (CWA) section 404 regulatory program. What does this mean in terms of getting permit authorization under the CGP for the discharge of pollutants from a construction site?

The CWA contains two different permitting programs: (1) Section 402 specifies the requirements for discharge permits under the National Pollutant Discharge Elimination System (in Alaska this program is called the Alaska Pollutant Discharge Elimination System or APDES permit program) which address the discharge of pollutants to waters of the United States, and (2) Section 404 specifies requirements for permits to address the discharge of dredged or fill material into navigable waters of the United States. CWA Sections 402 and 404 are mutually exclusive, i.e., Section 404 permits regulate the discharge of dredge and fill materials and Section 402 permits regulate the discharge of pollutants to waters of the U.S. except as provided under Sections 318 (addressing aquaculture) and 404. The APDES program primarily focuses on water quality, and the Section 404 program focuses on the impacts of dredge and fill placement in waters of the U.S., including wetlands and aquatic resources. While complementary, each permit has a distinctly different focus and approach.

A particular construction site may need separate authorizations to discharge under both a CWA Section 404 permit (addressing the discharge of dredge or fill material) and the CGP (addressing the discharge of pollutants in storm water runoff from a one acre wetland fill project). This one acre fill project would require a 404 permit for the placement of fill within a wetland as well as a CGP for the one acre disturbed area which could have storm water discharges to the wetland. The permittee must then comply with the terms and conditions of both permits.

7.0 GENERAL

7.1 What is the permit fee?

Permit fees are stipulated in [18 AAC 72.956](#). Currently, for the CGP, there is a one-time fee of \$490.00.

7.2 How do you calculate the total area of disturbance when there are off-site support activities that require permit coverage?

Disturbed areas are portions of the site that have been altered from pre-existing conditions. Some examples of disturbed areas include:

- Clearing of the land for access (i.e., access roads) to the site as well as preparing the site for the construction project;
- Constructing access roads to the site;
- Grading of the project site in total;
- Equipment staging areas, maintenance areas, and construction easements if they occur atop a soil surface which has not been included in the calculation for area of soil disturbance;
- Material and/or soil stockpiles if atop a soil surface (not if atop an impervious surface such as concrete or asphalt);
- Area of asphalt or concrete pavement removal of existing structures if that demolition and removal is to the soil surface;
- Area that is related to demolition and removal of existing structures if that demolition and removal is to the soil surface;
- Concrete truck clean-out areas of atop a soil surface.

7.3 Is monitoring required if only a portion of a 20 acre site drains to an impaired water?

No, monitoring is only required when a project disturbs 20 acres (contiguous or non-continuous acres) that all drain to a water body listed on Alaska's 303 (d) List of Impaired Waters (i.e., Category 5) for sediment or turbidity.

7.4 Is permit coverage required prior to clearing vegetation?

Clearing vegetation is allowed prior to obtaining coverage under the CGP. DEC considers clearing to mean cutting down and removal of trees and brush without disturbing the soil or root mass. Clearing can be mechanized (e.g., hydro axing) or non-mechanized as long as the soil and root mass remain intact. If a project involves any form of clearing that disturbs the vegetative mat and exposes soil, it is subject to the terms of the CGP and must prepare a project-specific SWPPP, install control measures, and obtain authorization under the CGP before initiating clearing.

8.0 ADDITIONAL FAQ'S:

8.1 For 2011 CGP existing dischargers, what portions of the SWPPP should be updated for the 2016 CGP?

The entire SWPPP does not need to be rewritten. Existing dischargers when updating their existing SWPPP should be aware of additional items in site maps of public water supplies, inspection frequency, and soil stabilization requirements. For a summary of changes in the 2016 CGP compared to the 2011 CGP, see the [Section 2.0 Proposed Permit Changes](#) and [Table 2-1: Summary of Proposed Changes to the 2016 CGP](#) in the CGP Fact Sheet. Refer to [Section 5.3 of the Permit](#) for SWPPP Contents when reviewing and updating your SWPPP for content.

8.2 For 2011 CGP existing dischargers, is it required to reissue the entire SWPPP with the 2016 template or just replace relevant sections/pages?

You do not need to rewrite the entire SWPPP using the 2016 template. Update only those portions of the SWPPP that will be changed from this point forward. For purposes of compliance, project work done/SWPPP documentation to date would be evaluated under the 2011 CGP requirements and work moving forward (post 2016 authorization) would be evaluated under the 2016 CGP requirements.

8.3 Can the SWPPP Lead be the operator taking care of the SWPPP, and the SWPPP inspector be the owner?

As an example in regards to Department of Transportation (DOT) projects, where DOT is the owner and the contractor being the operator doing the work. The permit does not specify, but the owner may want to address in the contract specifications. The SWPPP identifies a number of contacts to be included in the Plan; if the contact performing a particular role as a “qualified person” according to the qualifications of the permit, they should be identified in the plan. Note, that a person can fulfill multiple roles.

8.4 For storm events (a rainfall event that produces more than 0.5 inch of precipitation in 24 hours and is separated from the previous storm event by at least 3 days of less than 0.1 inch of rain per day), when do you inspect?

Refer to [Part 6.1 Inspection Frequency](#) of the Permit. A permittee must conduct inspections at one of the following schedules:

- a) Once every seven calendar days; or
- b) Once every 14 calendar days and within 24 hours of the end of a storm event that resulted in a discharge from the site; or
- c) For areas of the state where the mean annual precipitation is forty (40) inches or greater, or relatively continuous precipitation or sequential storm events, inspect at least once every seven (7) calendar days.

If you have chosen option b for the schedule, you would have to inspect within 24 hours of the end of the storm event i.e., within 24 hours following 3 days of less than 0.1 inch or rain per day from the last day of the storm that resulted in 0.5 inch of precipitation.

8.5 Does the rain event start the next 14 day cycle for inspecting once every 14 calendar days and within 24 hours of the end of a storm event that resulted in a discharge from the site?

No, the storm event inspection would be in addition to the 14 day predetermined cycle.

8.6 Any changes to the definition of Final Stabilization in regards to % of growth?

No. See definition of Final Stabilization in Appendix C of the Permit.