

The Flow of Arizona's Stormwater Program

An AZPDES Update
May 5, 2009

Acronyms

AZPDES – Arizona Pollutant Discharge Elimination System

BMP – Best Management Practice

CGP – Construction General Permit

MS4 – Municipal Separate Storm Sewer System

(Phase I - Large and Medium; Phase II - Small)

MSGP – Multi-Sector General Permit (a.k.a. industrial permit)

NOI/NOT – Notice of Intent/Notice of Termination

SWPPP – Stormwater Pollution Prevention Plan

SWMP – Stormwater Management Program

Topic of Today's Discussion

Status of:

- Construction General Permit;
- Multi-Sector General Permit;
- Phase I MS4 Individual Permits;
- Phase II MS4 General Permit;
- Vessel General Permit
- DeMinimis General Permit; and
- Pesticide Permit.

Construction General Permit

- 2008 CGP became effective February 28, 2008
- Replaced February 2003 CGP
- EPA's CGP not applicable to Arizona (except on Indian Country)

Construction General Permit

Who must obtain CGP coverage?

Any “operator” of a site that disturbs one or more acres and which may discharge stormwater to waters of the U.S.

Construction General Permit

- NOI is NOT the permit
- NOI is 2 pages
- Permit is 40 pages
- NOI used to apply for permit coverage

Construction General Permit

NOI can also be completed and submitted electronically via SMART NOI

<http://az.gov/webapp/noi/main.do>

SMART NOI is being re-tooled and will replace existing system

Construction General Permit

Effluent Limitation Guidelines (ELGs)

EPA issued draft rule November 28, 2008

Comment period closed February 26, 2009

Construction General Permit

EPA's Preferred Option:

**Option 2 – which includes all of Option 1
(including Part IX.B) and other provision
specified in Option 2.**

Construction General Permit

Effluent limitation included in all options (IX.B):

- Preserve top soil;
- Minimize soil compaction;
- Sequence construction activities;
- Minimize disturbance on slopes;
- Establish and maintain natural buffers;
- Minimize the construction of stream crossings;
- Diverts stormwater run-on;
- Establish perimeter controls for down slope and side slope areas;
- Establish and use stabilized constructions site ingress and egress;
- Minimize the introduction of pollutants (including sediment) to storm drains;
- Control sediment and other pollutants from dewatering activities.

Construction General Permit

Option 1

Provide sediment basins or equivalent sediment controls for sites that have 10 or more acres disturbed at any one time.

Designed to contain 2-year, 24-hour storm event with additional 1,000 ft³ of storage or 3,600 ft³ per acre drained.

Construction General Permit

Option 2

Would establish numeric limit for turbidity (13 NTUs).

Applied to sites that meet the following criteria:

- 1) Average clay content >10%
- 2) Annual R factor of 50 or more
- 3) Construction site is 30 acres or more

Construction General Permit

Option 3

- Not EPA's preferred option.
- Would include all of Option 1, plus all sites with 10 or more disturbed acres would have to comply with numeric turbidity effluent limit (no threshold values for clay content or R factor).

Construction General Permit

So, where are we and where are we going with effluent limits?

- EPA has not finalized ELG rule.
- Depending on EPA's adopted approach, EPA may need to re-open their CGP to incorporate ELGs.
- ADEQ would likely have to do the same.

Currently in "wait and see" mode.

Construction General Permit

Common Areas of Non-Compliance

- Failure to obtain permit coverage;
- Not using phased grading;
- Not providing temporary and/or final stabilization;
- Not preparing a SWPPP;
- Not maintaining an updated SWPPP;
- No monitoring plan/failure to submit DMRs;
- Not maintaining BMPs; and
- Not submitting a NOT.

Multi-Sector General Permit

- Arizona formerly covered under EPA's MSGP 2000
- Expired October 2000
- Permittees that obtained coverage prior to the expiration of EPA's MSGP 2000 are covered (until ADEQ issues its permit)

Multi-Sector General Permit

- Arizona's 2009 MSGP anticipated to look similar to EPA's 2008 permit
- ADEQ to issue Arizona MSGP in 2009

Multi-Sector General Permit

Who must obtain MSGP coverage

- Operators of industrial facilities if their activities are included within one of 29 industrial sectors
- Those permitted under EPA's 2000 MSGP and facilities currently without coverage

Multi-Sector General Permit

How to obtain MSGP coverage

- Prepare a stormwater pollution prevention plan (or update existing SWPPP) for your facility;
- Prepare and submit NOI, ensure it is ADEQ's (not EPA's) NOI is for MSGP (not construction or other);
- SWPPP must be submitted to ADEQ with NOI if your facility is within ¼ mile of an impaired water or outstanding Arizona water (OAW); and
- Timeframes to be specified in the permit.

Multi-Sector General Permit

Must also check your subsector for sector specific benchmark monitoring requirements

Multi-Sector General Permit

Example:

Sector A – Timber Products

Subsector A1 (General Sawmills and Planing Mills)

Subsector A2 (Wood Preserving)

Subsector A3 (Log Storage and Handling)

Subsector A4 (Hardwood Dimensions and Flooring Mills, etc.)

Multi-Sector General Permit

Sectors G (metal mining) and J (non-metallic mineral mining and dressing) only:

- Do not have to obtain CGP coverage separately.
- Construction activities covered under MSGP.
- Must comply with sector specific construction requirements.

Multi-Sector General Permit

Two informal stakeholders' workshops are planned in Phoenix and Tucson on May 19 & 21, 2009, respectively:

Phoenix—May 19, 1:00 – 5:00 pm; ADEQ, 1110 W. Washington St., 3rd Floor Conference Room #3175

•Tucson—May 21, 1:00 – 5:00 pm; Pima County Association of Governments (PAG), 177 N. Church Ave., 5th Floor Conference Room.

Multi-Sector General Permit

The draft MSGP will be issued for formal public comment, as required by A.A.C. R18-9-A907B. Check ADEQ website www.azdeq.gov and Arizona Administrative Register for updates.

Stay Tuned!

EPA's Vessel Discharge General Permit

- EPA sued by Northwest Environmental Advocates regarding EPA's exemption for vessel discharges (see 40 CFR 122.3(a)) on the grounds the exemption exceeded the agency's authority.
- EPA appealed the District Court's decision, and on July 23, 2008, the Ninth Circuit upheld the decision.

EPA's Vessel Discharge General Permit

- Until February 6, 2009, there was a regulatory exemption from NPDES permitting of discharges “incidental to the normal operation of a vessel.”
- Due to court order, this exemption was vacated.
- As a result, many vessels must have a 402 Clean Water Act NPDES permit to discharge legally.

EPA's Vessel Discharge General Permit

EPA's VGP is a national permit applicable to all states, including those with NPDES authority (like Arizona).

EPA's Vessel Discharge General Permit

EPA originally conceived two separate permits:

Discharges associated with recreational vessels (less than 79 feet in length); and

Discharges associated with commercial vessel and recreational vessels 79 feet and greater.

EPA's Vessel Discharge General Permit

- Congress passed the Clean Boating Act of 2008 thereby exempting incidental discharges from recreational vessels, regardless of length (CWA Section 402(r).
- The Act requires the Administrator to develop management practices to mitigate adverse impacts on the waters of the U.S. from recreational vessels (CWA Section 312(o).
- To be completed within 1 year of enactment.

EPA's Vessel Discharge General Permit

As a result of the Clean Boating Act, only one VGP
was issued - *Vessel General Permit for Discharges
Incidental to the Normal Operation Vessels*

EPA's Vessel Discharge General Permit

So, what does EPA's VGP cover?

- Discharges incidental to normal operation of non-recreational vessels 79 feet or longer, except commercial fishing vessels.
- Ballast water discharges associated with all non-recreational vessels (including commercial fishing vessels and vessels less than 79 feet).

EPA's Vessel Discharge General Permit

Applicability to Arizona

Pretty limited as most vessels operating in Arizona are recreational, but anticipate management practices for recreational vessels.

EPA's VGP may be obtained from:

http://cfpub.epa.gov/npdes/home.cfm?program_id=350#authorization

Pesticide Permit

- EPA challenged by The National Cotton Council of America et al. on its regulatory exclusion for pesticide applications to and near waters of the U.S. (40 CFR 122.3(h)).
- Lower court overturned exemption.
- EPA appealed.
- Sixth Circuit Court of Appeals upheld lower court ruling.

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Pesticide Permit

What are the impacts of court decision? Permit coverage will be required for the following:

- 1) The application of pesticides directly to water in order to control pests; and
- 2) The application of pesticides to control pests that are present over or near water, where a portion of the pesticides will unavoidably be deposited to the water in order to target the pests.

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Pesticide Permit

When will permit coverage be required?

- Court ruling was to take effect April 9, 2009.
- EPA requested 2-year extension to allow time to write permit and allow for authorized states to write their permits.

Pesticide Permit

- EPA permit not anticipated to apply to authorized states.
- ADEQ will issue Arizona (AZPDES) permit.
- Likely to be a general permit as opposed to individual permit.
- ADEQ anticipates modeling Arizona's permit after EPA's permit, but customized (as necessary) to Arizona needs/requirements.
- Arizona's pesticide permit will follow regulatory requirements, including public notice and comment process.

Pesticide Permit

Check ADEQ website www.azdeq.gov for updates on Arizona's pesticide permit.

Stay Tuned!

De Minimis General Permit

- DGP provides coverage for eligible discharges.
- “De Minimis discharge” means a discharge to waters of the U.S. which:
 - Meets the applicable surface water quality standards (18 A.A.C. 11, Article 1);
 - Is a low-flow and/or low-frequency event, or is otherwise determined by ADEQ to have no significant impact on water quality or the environment;
 - Is conducted with appropriate BMPs; and
 - Lasts no more than 30 consecutive days unless written approval for a longer discharge duration is issued in advance by the Department.

De Minimis General Permit

Two types of permit coverage:

- Area wide; and
- Single source (i.e., one discharge source at one location).

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De Minimis General Permit

Area-Wide

Example: Municipality might seek area-wide coverage for line flushing at multiple locations.

Typically their permit coverage is “on-going.”

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De Minimis General Permit

Single Source

Example: Coverage may be obtained for aquifer pump test.

De Minimis General Permit

Single Source

Examples:

- Aquifer pump test;
- Disinfecting and flushing related to the installation of potable water pipeline;
- Hydrostatic testing of pipes and tanks; and
- Other eligible discharges.

De Minimis General Permit

DGP Status

- AZG2004-001 expired March 17, 2009.
- Permittees that obtained coverage prior to this date are still covered.
- Not accepting new applications for coverage.

De Minimis General Permit

DGP Status

- ADEQ currently in process of re-issuing permit.
- Will be available for informal public review prior to formal public notice.
- ADEQ anticipates final permit issuance in July 2009.

De Minimis General Permit

Check ADEQ website www.azdeq.gov for updates on Arizona's DGP.

ADEQ Contact: Lavinia Wright, (602-771-4585) or lw4@azdeq.gov

Stay Tuned!

Phase I MS4

What is a Phase I MS4?

Large and Medium municipal separate storm sewer systems.

Large = population of 250,000 or more*.

Medium = population of 100,000 or more, but less than 250,000*.

*based on 1990 census

Phase I MS4

There are eight Phase I MS4s in Arizona:

Arizona Department of Transportation

Glendale

Mesa

Phoenix

Pima County

Scottsdale

Tempe

Tucson

Phase I MS4

How are Phase I MS4s regulated?

Clean Water Act, Section 402(p), rules established in 40 CFR 122.26.

- Typically issued individual permits (as opposed to general permits), one permit to one permittee.
- Arizona permits originally issued by EPA circa 1999.
- ADEQ in process of re-issuing permits.
- Phoenix permit re-issued in February 2009.

Phase I MS4

- Must prepare and submit a Stormwater Management Plan (SWMP) to ADEQ for review/approval.
- Must reduce the discharge of pollutants to the “maximum extent practicable.”
- Major components of SWMP must address:
 - Construction stormwater management;
 - Post construction stormwater management;
 - Illicit discharge detection and elimination;
 - Practices for operating and maintaining public streets; and
 - A program to monitor and control pollutants in stormwater discharges to the MS4.

Phase I MS4

- Must conduct *outfall* monitoring.
- Typically 5-10 outfall locations are monitored.
- Analytical parameters are established in the individual permits.
- Must reports results and estimate pollutant loading based on monitoring results.
- Submit annual report to ADEQ.

Phase II MS4s

What is a Phase II MS4?

Sometimes referred to as small MS4s because they were not brought in with large and medium MS4s.

- Based on *urbanized area* from the latest decennial census (2000 census most recent).
- Can be designated by permitting authority.
- 2010 census results likely to require others to obtain coverage.

Phase II MS4s

There are 43 Phase II MS4s

Comprised of traditional, non-traditional, and designated permittees.
Includes: various cities, counties, military installations, universities, and VA hospitals.

Phase II MS4s

How are Phase II MS4s regulated?

Clean Water Act, Section 402(p), rules established in 40 CFR 122.34.

- Phase II permitted in Arizona under a general permit.
- ADEQ in process of re-issuing permit.

Phase II MS4s

Phase II MS4 General Permit 6 Minimum Control Measures

1. Public Education and Outreach
2. Public Involvement/Participation
3. Illicit Discharge Detection and Elimination
4. Construction Site Stormwater Runoff Control
5. Post-Construction Stormwater Management in New Development and Redevelopment
6. Pollution Prevention/Good Housekeeping for Municipal Operations

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Phase II MS4s

Examples - Public Education and Outreach

Mailers in utility bills

Brochures, fact sheets

Stormwater webpage

Presentations at schools

Public service announcements

Signs

Phase II MS4s

Examples - Public Involvement / Participation

- ◆ Volunteer opportunities such as:
 - ◆ Adopt-a-Wash
 - ◆ Storm drain stenciling
 - ◆ Stormwater hotline
- ◆ Household hazardous waste collection days
 - ◆ Public meetings
- ◆ Stormwater advisory committee



Phase II MS4s

Examples - Illicit Discharge Detection and Elimination

Ordinance

Storm sewer map

Inspect outfalls and drainage system

Storm drain stenciling

Phase II MS4s

Examples - Construction Site Stormwater Runoff Control

Sediment and Erosion Control Ordinance

Develop BMP manual

Review site plans

Inspections and enforcement

Phase II MS4s

Examples - Post-Construction Stormwater Management

Ordinance

Inspect and maintain retention/detention ponds

Low impact development

Site design

Phase II MS4s

Examples - Pollution Prevention / Good Housekeeping for Municipal Operations

Street sweeping

Catch basin cleaning

Parks and Recreation – fertilizer application

Municipal vehicle washing policy

Salt and sand storage locations/snow disposal locations

Training for employees

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Questions?

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