

**FACT SHEET  
AND SUPPLEMENTARY INFORMATION  
FOR GENERAL PERMIT ARR150000  
STORMWATER RUNOFF ASSOCIATED WITH CONSTRUCTION SITES  
IN ARKANSAS**

Information in this part is organized as follows:

1. Background and Changes
2. Regulatory Background
3. Permit Coverage
  - a. Notice of Intent
  - b. Termination of a Qualifying Local Program
  - c. Individual Permits
4. Technology-Based vs. Water Quality-Based Effluent Limitations and Conditions
5. Best Available Pollutant Control Technology (BCT) and Best Available Technology Economically Achievable (BAT)
6. Water Quality Requirements
7. BMP Requirements and Basis
8. Other Conditions
9. Public Notice
10. Renewal of Permit Coverage
11. Sources
12. Economic Impact

1. **Background and Changes**

The ADEQ is reissuing a general permit for Stormwater Discharges Associated with Construction Activity which became effective on November 1, 2011 and will expire on October 31, 2016.

This is a renewal of the General Construction Stormwater permit. Upon renewal, the Department decided to add additional permit requirements and clarify the overall permit. The proposed major changes are as follows:

- A. Definitions for ERW, ESW, NSW, Waters of the State, Drainageway, Duly Authorized Representative, and Natural Buffer have been added to Part I.A.
- B. Part I.B.6.C has been added to include the requirement for the permittee to submit a \$200 permit modification fee and updated SWPPP with any request to increase the total acreage of a construction site. An updated SWPPP should be submitted with any request to increase the disturbed acreage of a construction site (no permit modification fee is required unless there is a change in the total acreage of the site).
- C. Part I.B.11.D. has been changed to include that a quarterly report shall be submitted to the Department if a numeric limit has been assigned to the facility based on an approved TMDL.
- D. Part I.B.11.F. has been added to exclude construction sites from coverage under this general permit if the site discharges directly into an Extraordinary Resource Water (ERW), Natural and Scenic Waterways (NSW), or Ecologically Sensitive Waterbodies (ESW), unless proper BMPs are in place to prevent possible exposure to stormwater of pollutants that could potentially impact water quality.
- E. Part I.B.12. has been added to clarify that this general permit does not authorize any activity under a Short Term Activity Authorization (STAA) or Section 404 permit.
- F. Part II.A.1.C. has been changed to require the permittee to update the SWPPP to meet any new requirements of this renewal permit by the effective date of the permit. The permit will be issued at least six months before the effective date of the permit, which the Department believes to be sufficient time to update the SWPPP.
- G. Part II.B.4 has been changed to clarify the deadline for submittal of the Renewal NOI after issuance of the renewed permit. The Renewal NOI should be submitted to the Department up to 180 days prior to the expiration date, but no later than 30 days prior to the expiration date. This is because the renewed permit will be issued at

least six months prior to the effective date of the permit, which allows the permittee sufficient time to submit the required Renewal NOI to the Department. The Renewal NOI is due to the Department no later than 30 days prior to the expiration date in order to allow sufficient time for processing due to the large number of construction sites covered under this general permit.

- H. Parts I.B.13.A.1, 2, 6, and 7, Part I.B.13.B, and Part I.B.13.D.2 have been updated to reflect the 2014 updates to the Effluent Limitations, Guidelines and Standards: Construction and Development Point Source Category found in 40 CFR 450.21.
- I. Part I.A.26.D has been changed to reference Waters of the State, instead of Waters of the United States.
- J. Part II.A.4.F.9 has been changed to require that the site map show all Waters of the State and the associated natural buffer boundary lines, and to identify floodplain and floodway boundaries, if available.
- K. Parts II.A.4.F.13 and II.A.4.F.14 have been added to require that the site map include a legend to clearly specify any symbols used in the site map, and the location of any storm drain inlets.
- L. Part II.A.4.G.2.d has been changed to specify the deadlines for stabilization only after construction activity temporarily ceases.
- M. Part II.A.4.G.2.e has been added to specify the deadlines for stabilization after construction permanently ceases.
- N. Parts II.A.4.H.1 and II.A.4.H.6 have been updated to specify that contaminants should also not be discharged offsite.
- O. Part II.A.4.L has been updated to clarify that inspections should include determining if the erosion control measures are effective in preventing significant offsite impacts, in addition to significant impacts to Waters of the State.
- P. Part II.A.4.L.1.b has been changed to require an inspection at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.25 inches or greater, if the 7 calendar day inspection frequency is not chosen.

## 2. Regulatory Background

The federal stormwater regulations contained in 40 CFR 122.26 require NPDES permit coverage for small (disturbing one acre or more and less than five acres) and large (disturbing 5 acres or more) construction sites.

## 3. Permit Coverage

Facilities covered by this general permit include those facilities which engage in construction activities greater than one (1) acre in size or less than one (1) acre that is part of a larger common plan in accordance with 40 CFR Part 122.28(a)(2)(i). The Department has excluded certain activity in accordance with 40 CFR Part 122.28(a)(2)(ii) and 40 CFR 450.

### A. Notice of Intent (NOI)

#### 1) Large Construction Sites (greater than or equal to 5 acres)

Written notification from new dischargers shall be submitted to the Department at least ten business days prior to the proposed discharge. Unless the applicant is notified otherwise (by phone, email, or letter) by the Director within ten business days of the notification being deemed complete, authority to discharge under this general permit will become effective. In addition, a Stormwater Pollution Prevention Plan (SWPPP) and permit fee must be submitted along with the NOI for large sites.

#### 2) Sites with Automatic Coverage

Sites that are more than one acre but less than five acres are automatically covered under the provisions of this general permit. All conditions set forth in Part II.A should be followed and Notice of Coverage (NOC) must be posted at the construction site and a copy of the SWPPP must be kept at the site.

- 3) The Notice of Intent (NOI) must contain at the minimum the information required by 40 CFR Part 122.28(b)(2)(ii).

**B. Termination of a Qualifying Local Program.**

- 1) Termination Approval. A Qualifying Local Program may be terminated by either the Department or the municipality. Upon termination of Department approval of a Qualifying Local Program, any construction site must meet the requirements of this permit.
- 2) Expiration Approval. Department approval of a Qualifying Local Program will expire with this general permit. Any municipality desiring to continue Department approval of their program must reapply by 6 weeks after the effective date of the permit. The Division will determine if the program may continue as an approved Qualifying Local Program.

**C. Individual Permits**

The ADEQ may consider the issuance of individual permits according to the criteria in 40 CFR 122.28(b)(3).

**4. Technology-Based versus Water Quality-Based Effluent Limitations and Conditions**

Following regulations promulgated at 40 CFR Part 122.44(1)(2)(ii), the permit limits are based on either technology-based effluent limits pursuant to 40 CFR Part 122.44(a) or on State water quality standards and requirements pursuant to 40 CFR Part 122.44(d), whichever are more stringent as follows.

**5. Best Conventional Pollutant Control Technology (BCT) and Best Available Technology Economically Achievable (BAT)**

Two types of technology-based effluent limitations must be included in the permits proposed here. With regard to conventional pollutants, i.e., pH, CWA section 301 (b)(1)(E) requires effluent limitations based on "best conventional pollution control technology" (BCT). With regard to nonconventional and toxic pollutants, CWA section 301(b)(2)(A), (C), and (D) require effluent limitations based on "best available pollution control technology economically achievable" (BAT), a standard which generally represents the best performing existing technology in an industrial category or subcategory. BAT and BCT effluent limitations may never be less stringent than corresponding effluent limitations based on best practicable control technology (BPT), a standard applicable to similar discharges prior to March 31, 1989 under CWA 301(b)(1)(A).

Frequently, EPA adopts nationally applicable guidelines identifying the BPT, BCT, and BAT standards to which specific industrial categories and subcategories are subject. Until such guidelines are published, however, CWA section 402(a)(1) requires that EPA determine appropriate BCT and BAT effluent limitations in its NPDES permitting actions on the basis of its best professional judgment. This permit has included permit effluent limits (Part II.B.12) based on 40 CFR 450.

**6. Water Quality Requirements**

In accordance with 40 CFR 122.44(d), the general permit must include any requirements necessary to achieve State Water Quality Standards as established under Section 303 of the Clean Water Act.

**7. BMP Requirements and Basis**

Numeric discharge limits are not imposed by this general permit at this time. The permit language is included to ensure that those seeking coverage under this general permit will select, install, implement, and maintain BMPs at their construction site that will be adequate and sufficient to meet water quality standards for all pollutants of concern. The ADEQ has determined that BMPs, when properly selected, installed, implemented, and maintained do provide

effluent quality that can meet WQS based on 40 CFR 122.44(k).

## **8. Other Conditions**

### A. Eligibility and Authorization

An operator engaged in construction activity greater than or equal to 1 acre in size in the State of Arkansas is eligible for coverage under this general permit.

### B. Expiration Date

This general permit will expire five (5) years from the effective date of the permit.

## **9. Public Notice and Public Hearing.**

The public notice describes the procedures for the formulation of final determinations and shall provide for a public comment period of 30 days. During this period, any interested persons may submit written comments on the permit and may request a public hearing to clarify issues involved in the permitting decision. A copy of the permit and public notice were sent via email to the Corps of Engineers, the Regional Director of the U.S. Fish and Wildlife Service, the Department of Arkansas Heritage, the EPA, and the Arkansas Department of Health.

The public comment period began on the date of publication, Thursday, March 24, 2016 and ended on April 25, 2016 at 4:30 p.m. (Central Time).

## **10. Renewal of Permit Coverage.**

The renewal general permit will be issued at least six months prior to the expiration date, at which time facilities can submit the Renewal NOI to the Department. The Renewal NOI shall be submitted to the Department no later than 30 days prior to the expiration date to allow sufficient time for processing and review. This will also allow time for the Renewal Notice of Coverage to be provided to the permittee as close to the effective date of the renewal general permit as possible.

## **11. Sources.**

The following sources were used to draft this permit:

- A. 40 CFRs 122, 125, 450, as adopted by APCEC Regulation No. 6.
- B. APCEC Regulation No. 2.
- C. APCEC Regulation No. 6.
- D. APCEC Regulation No. 8.
- E. APCEC Regulation No. 9.
- F. [U.S. EPA Stormwater web page.](#)
- G. Ark. Code Ann. § 8-4-203(m)

## **11. Economic Impact**

The Arkansas Construction Stormwater General Permit ARR150000 incorporates the Effluent limitation based on 40 CFR 450. The permit is also in compliance with state-level regulations (APCEC Regulation No. 2, 5, 6, 8, and 9) concerning the permitting process.

Most of the requirements in this general permit were in the previous permit. The changes listed in section 1 of this Fact Sheet will not have an economic impact, except the requirement for an additional fee for permit modifications to add total acreage to the permitted area. The permit modification fee can be avoided by providing the Department with

the accurate total acreage on the originally submitted Notice of Intent. Therefore, this permit does not place any additional undue burden on any private business entity, large or small. It does not restrict any opportunities that are available to any small businesses. The inspection and control requirements are set at a level to protect water quality while minimizing the resources required for compliance.

The permit fee of \$200 is allowed by Arkansas Pollution Control and Ecology Commission Regulation No. 9.