

Coordinating State and Local Requirements for Construction Stormwater Sites

Q: Which Department of Ecology (Ecology) National Pollution Discharge Elimination System (NPDES) stormwater permits have construction site requirements?

A: Ecology issues a Construction Stormwater General Permit (CSWGP) to owners or operators of projects that disturb one or more acres. The permit requires site owners or operators to develop pollution prevention plans to control site erosion and stormwater runoff. At the same time, many local governments are subject to the state's Municipal Stormwater General Permit. This permit requires the local governments to develop and implement stormwater management programs that include measures to control stormwater runoff from construction sites within their jurisdiction.

Q: Do developers and contractors need to apply for two construction stormwater permits?

A: Projects must always comply with the local government's regulations, including any requirement to obtain a local permit, such as a building permit or a clearing and grading permit. In cities or counties covered by Ecology's municipal stormwater permit, local governments will require a local drainage plan review, which includes pollution prevention at the construction site. The thresholds at which the local requirements apply will vary across local jurisdictions.

Projects that meet the state's thresholds for the CSWGP also are required to obtain coverage from Ecology if stormwater is discharged to surface waters of the state. The CSWGP thresholds requiring permit coverage are:

- A construction site that disturbs an acre or more of land.
- Sites disturbing less than one acre, if the construction is part of a larger common plan of development that involves more than one acre of ground disturbance overall.
- Sites disturbing less than one acre for which Ecology determines that the stormwater discharge is a significant contributor of pollution to state waters. Muddy runoff is considered pollution because it harms fish and aquatic life.

MORE INFORMATION

Ecology Construction Stormwater General Permit Contacts

www.ecy.wa.gov/programs/wq/stormwater/construction/contacts.html

Ecology Municipal Stormwater General Permit Contacts

www.ecy.wa.gov/programs/wq/stormwater/municipal/municipalcontacts.html



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Q: What rules determine how the state regulates construction sites?

A: Federal Phase I and Phase II stormwater rules establish the stormwater regulations covering construction sites. These U.S. Environmental Protection Agency rules require the state to regulate construction sites through both a construction and a municipal stormwater permit. The federal rules also include an option for the state to approve local government programs. This allows construction site operators to meet the state's construction general permit requirements by complying with local construction site permit programs. However, establishing the programs is a complicated legal process, and in this state, that option would require making changes to state law. In 2007, Ecology invited interested parties to help it examine this alternative. The outcome was that local governments are not prepared to assume this responsibility and that Ecology is the appropriate agency to administer the federally mandated permits.

Q: How does the CSWGP differ from local government requirements?

A: Both the state construction stormwater permit and the municipal stormwater permits for local governments require operators of a construction project to develop and implement a Stormwater Pollution Prevention Plan (SWPPP). Permit requirements for developing and implementing a SWPPP under the Ecology construction stormwater permit are similar to the municipal stormwater permit requirements for local program. The only additional requirements in the Ecology-issued construction stormwater permit require (1) that you cannot discharge treated wastewater from wheel wash, concrete wash out, and water contaminated by pH-modifying sources are not allowed to stormwater systems; and, (2) the permittee must conduct stormwater discharge monitoring. A SWPPP developed to comply with the 2010 Construction Stormwater Permit will typically comply with the local government requirements for a construction SWPPP.

Q: How do local governments and Ecology work together to administer the permits?

A: Ecology and the local government both have oversight during the construction phase of the project, but the scope of local government concerns is broader and extends well beyond the erosion and sediment control portion of the project. Ecology municipal permits require local governments to review construction site SWPPPs and to inspect qualified, permitted sites before, during, and upon completion of construction. Local governments often combine the pre-construction site inspection with a review of plans for post-construction stormwater facilities, as well as critical areas and other elements of the local government's broader land use responsibilities.

When requested, Ecology assists local governments with training and compliance situations. At this time, coordination occurs as needed between local government construction site inspectors and Ecology construction stormwater general permit inspectors. This coordination varies based on staff availability. While many local governments are currently adopting the municipal stormwater permit requirements that apply to construction sites, Ecology's CSWGP program has been in place since 1992. Ecology's construction stormwater permit staff members have working relationships with many local governments that have existing drainage review and inspection programs. Regulators at the state and local levels work together when needed to address complex sites and to improve stormwater management on construction sites.