Arizona Stormwater Summit 2016

Stormwater Construction General Permit (CGP) Inspections & Enforcement: What To Expect When Your Inspected

May 3, 2016
Prepared by Kristie Chavero
Environmental Program Specialist

Arizona Department of Environmental Quality (ADEQ)
Key Points

- Regulations & Definitions
- Types of Inspections
- Inspection Activities
- Components of Inspection Checklist
- Common Deficiencies
- Best Management Practices (BMPs)
- Enforcement
The AZPDES 2013 Construction General Permit (CGP) was signed on May 29, 2013 and became effective June 3, 2013.
The CGP authorizes storm water discharges from construction-related activities where those discharges have a potential to enter surface waters of the United States or a storm drain system.
Inspection Types

2 Types of Inspections

- Unannounced CGP Compliance Inspection
- Announced CGP Compliance Inspection
Announced CGP Inspection

Due to:

- Rain Events
- Size of construction site
  - Greater than 5 acres
- Near a impaired or outstanding waters of the U.S.
- On-going construction
- Previous violations
Inspection Types

Unannounced CGP Inspection

Due to:

- Rain Events
- Response to a Complaint
Announced Inspection
Pre-Inspection

Verify the information provided on the Notice of Intent (NOI)
ADEQ Inspector

- Make contact with site “Responsible Party” (RP)
- Arrange a date for inspection
- Send out inspection checklist
Preparation for CGP Inspection

Responsible Party

- Have a knowledgeable person available familiar with the SWPPP requirements
- Review checklist
- Review CGP and requirements
- Check site’s BMPs
- Review any documents sent by ADEQ
ARS § 49-104 (B)(8)] Cites regulatory authority to perform inspection
Provides the facility with its rights during an inspection
Arizona Department of Environmental Quality

NOTICE OF INSPECTION RIGHTS

FACILITY INFORMATION

Facility Name (Customer):
Facility Location (Place):
Mailing Address:
Responsible Party:
On-Site Representative:
Telephone:

ADEQ INFORMATION

Date of Inspection:
County:
Inspector:
Telephone:
Accompanied by:
ADEQ Follow-up Contact:
Title:
Telephone:

The ADEQ representative(s) identified above were present at the above address on the above listed date and time. Upon entry to the premises, the ADEQ representative(s) met with the person, presented photo identification indicating that they are ADEQ employees and explained:

☐ I understand that I can accompany the ADEQ representative(s) on the premises, except during confidential interviews.

☐ I understand that I have right to:
  ▶ Copies of any original documents taken during the inspection, and that ADEQ will provide copies of those documents at ADEQ’s expense.
  ▶ A split of any samples taken during the inspection, if the split of the samples would not prohibit an analysis from being conducted or render an analysis inconclusive.
  ▶ Copies of any analysis performed on samples taken during the inspection and that ADEQ would provide copies of this analysis at ADEQ’s expense.

☐ I also understand that:
  ▶ Each person interviewed during the inspection must be informed that statements made by the person may be included in the inspection report.
  ▶ Each person whose conversation is tape recorded during the inspection must be informed that the conversation is being tape recorded.
  ▶ If an administrative order is issued or a permit decision is made based on the results of the inspection, I have the right to appeal that administrative order or permit decision. I understand that my administrative hearing rights are set forth in Arizona Revised Statutes § 41-1092 et seq. and my rights relating to an appeal of a final agency decision are found in Arizona Revised Statutes § 12901 et seq.
  ▶ If I have any questions or concerns about this inspection, I may contact the person listed as the ADEQ Follow-up Contact on the front of this form; ADEQ’s Ombudsman at (602) 771-4881 toll free inside Arizona at (800) 234-5677, extension 771-4881; or the Arizona Ombudsman-Citizens’ Aid office at (602) 277-7292 toll free at (800) 872-2879.
  ▶ If I have any questions concerning my rights to appeal an administrative order or permit decision, I may contact ADEQ’s Office of Special Counsel at (602) 771-2212 (toll free inside Arizona at (800) 234-5677, extension 771-2212).

Signature of Registered Person or Authorized On-Site Representative: __________
Date: __________

[ ] The regulated person or an authorized on-site representative refused to sign.

Name of Registered Person or Authorized On-Site Representative: __________
Title: __________

Signature of Registered Person or Authorized On-Site Representative: __________
Date: __________

[ ] The regulated person or an authorized on-site representative was not present at the facility.

Signature of ADEQ Representative: __________
Date: __________
Site Inspection

At the beginning of the inspection, the inspector will:

- Present photo ID and explain purpose of the inspection
- Review the Notice of Inspection Rights with the responsible party (RP) (A.R.S 49-1009)
- Provide written notice of inspection rights and present for signature by the on-site representative
- Provide the opportunity for an authorized individual to accompany them on the inspection
Steps of the Inspection

- Site Walkthrough
  - Inspect site for implementation of BMPs
  - Look for evidence of unauthorized discharges

- Stormwater Pollution Prevention Plan (SWPPP) & Records Review

- Exit Debriefing
  - Discuss findings of the inspection
Key Areas of Inspection Checklist

- The checklist is broken down into 8 sections
- Response given to the inspector are categorized as Yes, No, or Not Applicable
Checklist covers during the CGP inspection:

1. Permit, Site, and RP’s Information
2. Risk Assessment
3. Impaired or Outstanding Arizona Water
4. Site Inspection
5. Site Inactive
6. SWPPP
7. Corrective Actions
8. Observations and Comments
CGP Inspection Checklist
<table>
<thead>
<tr>
<th>Item</th>
<th>V</th>
<th>N</th>
<th>NA</th>
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<tbody>
<tr>
<td>BMPs</td>
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<tr>
<td>Temporary Stabilization</td>
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<tr>
<td>Inspection frequency:</td>
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<tr>
<td>Completed:</td>
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<tr>
<td><strong>SWPPP (6.0)</strong></td>
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<tr>
<td>Identification of storm water pollution prevention team</td>
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<tr>
<td>Summary of pollutant sources</td>
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<tr>
<td>Site map with name and location of BMPs</td>
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<td>Control measures to be used during construction activities</td>
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<td>Receiving water listed</td>
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<td>Related Permits or requirements (404 permit, agencies receiving a copy of the NOI...)</td>
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<td>Updates and modifications listed</td>
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<tr>
<td>Required notice to other operators</td>
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<tr>
<td>Inspection report contains scope and components required by Permit (4.3-4.4)</td>
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<td>Follow up inspections conducted when deficiencies noted</td>
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<td>Past inspections available for review</td>
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<tr>
<td>Copy of Notice of Intent (NOI)</td>
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<td>Copy of current permit (AZ02013-001)</td>
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<td>Signatory requirements</td>
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<tr>
<td><strong>CORRECTIVE ACTIONS</strong></td>
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<tr>
<td>Corrective actions made and documented within seven days</td>
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<tr>
<td><strong>OBSERVATIONS AND COMMENTS</strong></td>
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<tr>
<td>Facility representative must file Notice of Termination (NOT) to ADEQ upon completion of final stabilization. (2.5)</td>
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After the Inspection

- The inspection report will document inspector’s findings
- Identify whether potential deficiencies exist
- Inspector will provide a inspection report to on-site RP either on a USB drive or via email
Common Deficiencies

Was documentation available?

SWPPP Contents:

- Current contact information correct
- BMPs locations marked on site maps
- Routine Inspection completed
- Visual Assessments completed
- Corrections Actions completed
Common Deficiencies

- Housekeeping
- Failure to post signage and AZCON number
Common Deficiencies

Cont.

- Failure to prevent sediment discharges
  - Track out not maintained
  - Stockpiles not protected

- Failure to maintain concrete wash out areas
Common Deficiencies

Best Management Practices (BMPs):

- Improper BMPs used
- BMPs are installed incorrectly
- Stormwater control were never installed
- Perimeter not protected
- Failure to protect storm drain inlets and drywells
Control Measure

- Facilities must select, design, install, & implement SW control measures to minimize pollutant discharges.

- In accordance with good engineering practices & manufacturer’s specifications.
Corrective Action Required

Inlet protection

Sediment & debris buildup
Correction Action Required

Lack of inlet protection

Concrete wash out not being maintained
Corrective Action Required

Sediment control

Inactive stockpiles
Check your BMPs
Lack of Adequate BMPs - Sediment Control
Lack of Adequate BMPs - Sediment Control

Rolls should be horizontally overlapped
Adequate BMPs - Sediment Control
Adequate BMPs - Sediment Control
Adequate BMPs - Sediment Control
Adequate BMPs
BMPs - Sediment Control
Adequate BMPs – Chemical Stabilization
Adequate BMPs – Final Stabilization
Adequate BMPs

Construction Entrances

Pad of gravel over filter cloth where construction traffic leaves a site
Concrete Washouts

BMPs
Housekeeping
Portable Toilets
What is Wrong with this Picture?
What is Wrong with this Picture?
KEY POINTS

- Stormwater controls that need modification or replaced to correct the condition required corrective action.

- After a rain event the SWPPP team should check and performed maintenance on all BMPs the require maintenance attention either due to damage or found ineffective.
Types of Enforcement Actions

- Minor Violations
- Major Violation
- Formal Enforcement
Minor Enforcement Actions

Issues a Notice of Opportunity to Correct (NOC) Deficiencies
Cont.

- Informal compliance assurance tool
- Non-significant violations
- Opportunity to resolve deficiencies within a specified time frame
Field Issued NOC

**NOTICE OF OPPORTUNITY TO CORRECT DEFICIENCIES**

The Arizona Department of Environmental Quality (ADEQ) has reason to believe that the above referenced facility has failed to meet a requirement of the Arizona Revised Statutes (A.R.S.), a rule within the Arizona Administrative Code (A.A.C.), or an applicable permit/license, as listed below.

The purpose of this document is to provide notice that ADEQ believes a violation of an environmental requirement has occurred. Additionally, it provides opportunity to: (1) request a meeting with ADEQ and discuss the facts surrounding the violation; (2) demonstrate to ADEQ that no violations have occurred; or (3) document that the violations have been corrected.

### Legal Requirement
- General Permit for Stormwater Discharges Associated with Construction Activity (CPA 3.1.1)
- CPA Section 3.1.1.2
- CPA Section 3.1.1.3
- CPA Section 3.1.3.2
- CPA Section 3.1.3.3
- CPA Section 3.1.3.4
- CPA Section 4.2

### Nature of Alleged Deficiency
- Failure to design, install, and maintain effective erosion and sediment controls to minimize the discharge of pollutants.
- Failure to comply with temporary stabilization requirements to minimize the discharge of pollutants.
- Failure to comply with final stabilization requirements to minimize the discharge of pollutants.
- Failure to minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters.
- Failure to minimize tracking of sediments, debris, and other pollutants from vehicles and equipment leaving the site.
- Failure to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater.
- Failure to develop and implement a plan for the timely and effective clean up of spills.
- Failure to conduct routine site inspections in accordance with one of the schedules listed in Section 4.2 of the permit.

### Compliance Conditions

**To Establish Compliance**

Within calendar days of the date of this Notice, please submit documentation to the ADEQ contact above demonstrating that no violation has occurred or documentation that the alleged deficiency has been corrected. Acceptable documentation includes, but is not limited to, photographs, resistors, standard operating procedures, and/or relevant logs.

Once ADEQ has received the requested documentation, the date will be closed and a letter will be issued stating that the agency will take no further action as a result of this inspection.

**Statement of Consequences**

The time frames within this Notice for achieving and documenting compliance for the violations alleged are firm limits. Failure to achieve or document compliance within the time frames established in this Notice may result in ADEQ taking further enforcement action as authorized by law.

### Acknowledgment of Receipt

<table>
<thead>
<tr>
<th>ADEQ Representative: (Print Name)</th>
<th>Date:</th>
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</thead>
<tbody>
<tr>
<td>Signature of ADEQ Representative:</td>
<td></td>
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<tr>
<td>Site Representative: (Print Name)</td>
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</tr>
<tr>
<td>Signature of On-Site Representative:</td>
<td>Date:</td>
</tr>
</tbody>
</table>

AZCON - 1

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*Field Issued NOC*
Major Enforcement Actions

Notice of Violation (NOV)
Informal compliance assurance tool

Opportunity to meet or to demonstrate no violation occurred or correct

Reservation of rights to seek penalty

ADEQ may allow a designated time frame to correct the violation
Formal Enforcement Actions

- Administrative Orders
- Consent Order
- Compliance Orders
Consent Orders

- Issued after negotiation with RP

- Consent Orders are not appealable agency action because the facility agrees to the Order
Compliance Order

- May be issued when ADEQ is unsuccessful in negotiating Consent Order
- Appealable agency action
Civil Penalties

- Penalty non-compliance exists ADEQ may seek penalties
- Up to $25,000 per day violation
- Can seek injunctive relief to resolve violation
KEY POINTS

- CGP compliance inspection will evaluate:
  - The type of control measures
  - Additional controls required
  - Repairs or other maintenance
  - Corrective action required
  - Stabilization
  - Is the SWPPP up to date
ADEQ Stormwater Permits
Christopher Henninger (602) 771- 4508
Henninger.Christopher@azdeq.gov

ADEQ Water Quality Inspections & Compliance Unit
Jennifer Peterson (602) 771- 4253
Peterson.Jennfier@azdeq.gov

Kristie Chavero (602) 771- 4575
Chavero.Kristie@azdeq.gov
Useful Websites

ADEQ websites:

CGP Permit:
www.azdeq.gov

Construction General Permit (CGP)
Water Quality Permitting Webpage:


CGP Common Questions & Answers:

Questions ?