

**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 DEQ is reissuing a general permit for Stormwater Discharges Associated with Construction Activity which became effective on November 1, 2016 and will expire on October 31, 2021.

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

- A. Updated the agency name throughout the permit to Arkansas Department of Energy and Environment – Division of Environmental Quality (DEQ), Office of Water Quality.
- B. Updated Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation to APC&EC Rule throughout the permit.
- C. Definitions for Automatic Coverage, Commencement of Construction, Department, DEQ, Division, Director, Final Stabilization, Large Construction Site, Larger Common Plan of Development or Sale, Natural Buffer, Operator/Permittee, Qualified Personnel, Small Construction Site, Temporary Sediment Controls, and Uncontaminated have been updated in Part I.A.
- D. Definition for Construction Activity, Construction Support Activity, Losing Stream Segment, and Responsible Official has been added to Part I.A.
- E. Definitions for ADEQ, Discharge of Stormwater Associated with Construction Activity, Discharge Related Activities, Dedicated Portable Asphalt Plant, Dedicated Portable Concrete Plant, and Large and Medium Municipal Separate Storm Sewer System have been removed from Part I.A.
- F. Part I.B.2 has been updated to clarify the eligibility requirements.
- G. Part I.B.4 and Part I.B.7 has updated the options for submitting a Notice of Intent (NOI), Stormwater Pollution Prevention Plan (SWPPP), application fee, and electronic reporting waiver.
- H. Part I.B.6.C has been updated to have the operator to submit the Addition Acreage Request Form to DEQ through ePortal.
- I. Part I.B.10 has added “uncontaminated” to the description of allowable non-stormwater discharges for landscape irrigation, routine external building wash down which does not use detergents, soaps, solvents or other chemicals,

and pavement wash water where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled materials have been removed) and where detergents, soaps, solvents or other chemicals are not used.

- J. Part I.B.11.G and Part II.A.4.F has been added to exclude construction sites from coverage under this general permit if the site is located within a losing stream and/or sensitive aquatic species watershed, unless proper BMPs are in place to prevent possible exposure to stormwater pollutants that could potentially impact water quality.
- K. Part I.B.12 has been updated to clarify that this permit does not authorize any activity under an Individual 401 Certification.
- L. Part I.B.13.B has been updated to set the soil stabilization deadline in accordance with 40 C.F.R. 122.26.
- M. Part I.B.14 has been updated to direct stormwater to vegetated areas.
- N. Part I.B.15.C has been updated to ensure the operator certifies the construction activity will take place by a TMDL.
- O. Part I.B.24 has been updated to clarify the operator applying for an individual NPDES permit has to request termination.
- P. Part II.A.1 has been updated to ensure the plan is completed prior to obtaining permit coverage.
- Q. Part II.A.2 has been updated to include the inspection frequency in accordance with Part II.A.4.N.1.
- R. Part II.A.4.E has been added to exclude construction sites from coverage under this general permit if the site is located within ERW, NSW, or ESW, unless proper BMPs are in place to prevent possible exposure to precipitation and stormwater pollutants that could potentially impact water quality.
- S. Part II.A.4.I.3.a.2 has been updated to require the outfall structure for a sediment basin for less than ten (10) acres to meet the twenty-four (24) to seventy-two (72) hours draining requirement.
- T. Part II.B.4 has been revised to clarify on continuance of coverage under this general permit.
- U. Part II.B.22 has been revised to clarify that this general permit does not construe or preclude the operator from any legal action, enforcement actions, or relieve the operator from any responsibilities, liabilities or penalties.
- V. Various typos and rewording of sentences were corrected for clarity.

## 2. **Regulatory Background**

The federal stormwater regulations contained in 40 C.F.R. §122.26 require NPDES permit coverage for small (disturbing one (1) acre or more and less than five (5) acres) and large (disturbing five (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 of development or sale in accordance with 40 C.F.R. §122.28(a)(2)(i). DEQ has excluded certain activity in accordance with 40 C.F.R. §122.28(a)(2)(ii) and 40 C.F.R. §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 DEQ at least ten (10) business days prior to commencing construction activities that result in the proposed discharge. Unless the applicant is notified otherwise (by phone, email, or letter) by the Director within ten (10) business days of the notification being deemed complete, authority to discharge under this general permit will become effective. In addition, a completed Stormwater Pollution Prevention Plan (SWPPP) compliant with all permit requirements and conditions and permit fee must be submitted along with the NOI for large sites.

2) Sites with Automatic Coverage

Sites that disturb more than one (1) acre but less than five (5) acres, in addition to sites with land disturbances less than one acre that are part of a larger common plan of development or sale that will ultimately disturb greater than 1 but less than 5 acres are automatically covered under the provisions of this general permit. All conditions set forth in Part II.A shall be followed and Notice of Coverage (NOC) must be posted at the construction site and a copy of the completed SWPPP must be kept at the site.

- 3) The Notice of Intent (NOI) must contain at the minimum the information required by 40 C.F.R. §122.28(b)(2)(ii).

B. Termination of a Qualifying Local Program.

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

C. Individual Permits

The DEQ may consider the issuance of individual permits according to the criteria in 40 C.F.R. §122.28(b)(3).

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

Following regulations promulgated at 40 C.F.R. §122.44(1)(2)(ii), the permit limits are based on either technology-based effluent limits pursuant to 40 C.F.R. §122.44(a) or on State water quality standards and requirements pursuant to 40 C.F.R. §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 I.B.13) based on 40 C.F.R. §450.21.

## **6. Water Quality Requirements**

In accordance with 40 C.F.R. §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 and construction support activities located off site that will be adequate and sufficient to meet water quality standards for all pollutants of concern. The DEQ has determined that BMPs, when properly selected, installed, implemented, and maintained, do provide effluent quality that can meet WQS based on 40 C.F.R. §122.44(k).

## **8. Other Conditions**

### **A. Eligibility and Authorization**

An operator engaged in construction activity greater than or equal to one (1) acre in size, and less than one acre if part of a larger common plan of development or sale, 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 thirty (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. The DEQ will notify via an e-mail public notice of the permit to the Corps of Engineers, the U.S. Fish and Wildlife Service, the Arkansas Game and Fish, the Department of Parks, Heritage, and Tourism, the EPA, and the Department of Health for review and comments.

The public comment period began on the date of publication, Sunday, November 1, 2020 and ended on December 1, 2020 at 4:30 p.m. (Central Time).

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

The renewal general permit will be issued at least six (6) months prior to the expiration date, at which time operators must develop a SWPPP compliant with the new permit requirements and submit the Renewal NOI to DEQ. The Renewal NOI shall be submitted to DEQ no later than thirty (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 C.F.R. §122, §125, §450, as adopted by APC&EC Rule 6.
- B. APC&EC Rule 2.
- C. APC&EC Rule 6.

- D. APC&EC Rule 8.
- E. APC&EC Rule 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 C.F.R. §450.21. The permit is also in compliance with state-level regulations (APC&EC Rule 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. 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 APC&EC Rule 9.