

Alaska Department of Environmental Conservation  
Storm Water Construction General Permit

*Frequently Asked Questions  
about the 2011 ACGP (AKR100000)*

**Q1: When does a change in my original Notice of Intent (NOI) require filing a modification?**

A1: The NOI Modification form must be filed if one of the following occur: change to the start or end dates, small changes in the number of acres to be disturbed, change in or decision to use (or not use) treatment chemicals, changes to the owner/operator contact name or information, and changes to the Storm Water Pollution Prevention Plan (SWPPP) contact information or viewing location. You do not need to submit a modification for a change in SWPPP, but you must note it in your SWPPP and related reporting documents. No fee is required for the modification.

**Q2: What changes to my NOI would require me to file a Notice of Termination (NOT) and submit a new NOI instead of submitting an NOI Modification?**

A2: When the operator has changed, the original NOI indicated that the disturbed area was between one and five acres, and the project will now disturb more than five acres, or the original project disturbed more than five acres and the size of the project area has increased by more than 50%. No fee is required for this change to your NOI.

**Q3: What do I put for 'city' if my site location is not in a city?**

A3: Enter the nearest city to your project. You can be more detailed in street location. For example, the project is 20 miles south of Fairbanks. Enter Fairbanks for the city, and 20 miles south of Fairbanks on *[street name]* at milepost *[number]* for the street address.

**Q4: I have a building permit for the Municipality of Anchorage. Do I still need to submit a NOI?**

A4: If the disturbance is one (1) acre or larger, and the stormwater will be discharging to waters of the U.S., you require an ADEC stormwater permit and you must submit an NOI.

**Q5: In the case of a site which has multiple NOIs filed at different times, when does the 7-day wait period start?**

A5: ADEC's policy is that the seven (7) day wait period begins with the NOI submitted by the operator doing the bulk of the site disturbance (for example, dirtwork). Although all owner/operators must submit a NOI, work may commence after the seven day wait period of the primary owner/operator who is undertaking the bulk of the actual site disturbance.

**Q6: In cases that have several NOI's associated with the same project, is a fee required for each NOI?**

A6: No. Only one fee is required for a given site/facility even though there may be several NOIs submitted for the site.

**Q7: Is a billing address required to be filled in if payment is being submitted with a different NOI?**

A7: Yes. The eNOI system is used for a range of permits and a billing address is required.

**Q8: I am working on a single project with several NOIs, some of which were applied for using the eNOI system, some using paper copies. How are the paper and eNOIs linked so that only one payment is due?**

A8: The eNOI's are linked as part of the electronic application system. They can be linked to other NOI's submitted electronically or to paper NOI submission. Paper NOI should include a note explaining that it is linked to eNOI(s), along with a statement of who will be paying the fee. Paper NOI are logged to the electronic application system by DEC Staff.

**Q9: I do not know my receiving waters. Can I put 'none'?**

A9: No, if you are not discharging to any waters of the United States, you do not need a permit. It is better to list the nearest water body. If the nearest water body is unnamed, you can list 'unnamed waters', or 'unnamed wetlands'. Please indicate whether the discharge is to unnamed freshwaters or unnamed salt waters.

**Q10: Does stating that 'appropriate BMPs will be used' sufficient for my SWPPP?**

A10: The SWPPP template can assist in determining the information required for each BMP. It can be found at [http://dec.alaska.gov/water/wnpspc/stormwater/sw\\_construction.htm](http://dec.alaska.gov/water/wnpspc/stormwater/sw_construction.htm)

**Q11: .What is the preferred format for latitude and longitude?**

A11: Degrees in decimal fractions.

**Q12: If I attach my SWPPP electronically with my eNOI application, do I need to submit a paper copy to ADEC?**

A12: No. In fact, an electronic copy of your SWPPP is preferable to a hard copy.

**Q13: When must I submit either an electronic or paper SWPPP to ADEC?**

A13: The operator developing a project that disturbs five or more acres of land and where the project is located outside the area of an APDES permitted Municipal Separate Storm Sewer System (MS4) must submit a copy of the SWPPP to ADEC at the time the NOI is filed or within seven calendar days of filing the paper NOI form. Additional SWPPP submittal requirements for projects located inside the area of an APDES permitted MS4 can be found at: [CGP SWPPP Submittal Requirements](http://dec.alaska.gov/water/wnpspc/stormwater/SWPPPSubmittalRqmts.htm) in the “Of Interest” box in the upper right side of the ACGP webpage, or via the following: (<http://dec.alaska.gov/water/wnpspc/stormwater/SWPPPSubmittalRqmts.htm>).

**Q14: Must the eNOI certifier be the same person who signs the eNOI?**

A14: The person listed as the certifier must be the signee in either a paper or electronic NOI submission. Be sure that the person signing the NOI has the proper authorization as outlined in the General Permit – See Appendix A Part 1.12 (listed below):

1.12.1 In accordance with 18 AAC 83.385, any application for coverage under this permit (e.g. NOI) must be signed as follows:

1.12.1.1 For a corporation, by a responsible corporate officer; in this subsection, a responsible corporate officer means

1.12.1.1.1 A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

1.12.1.1.2 The manager of one or more manufacturing, production, or operating facilities, if

1.12.1.1.2.1 The manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long

term environmental compliance with environmental statutes and regulations;

1.12.1.1.2.2 The manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and

1.12.1.1.2.3 Authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

1.12.1.2 For a partnership or sole proprietorship, by the general partner or the proprietor, respectively; or

1.12.1.3 For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official; in this subsection, a principal executive officer of an agency means

1.12.1.3.1 The chief executive officer of the agency; or

1.12.1.3.2 A senior executive officer having responsibility for the overall operations of a principal geographic unit or division of the agency.

**Q15: Are the forms available in electronic form?**

A15: The Notice of Intent (NOI), Notice of Termination (NOT) and NOI Modification forms are available in electronic form, see <http://dec.alaska.gov/water/wnpspc/stormwater/Forms.htm>

**Q16: Where do I find the electronic NOI and instructions on how to use it?**

A16: The electronic NOI is found at <http://dec.alaska.gov/water/wnpspc/stormwater/APDESeNOI.html>

Instructions are provided in the “Of Interest” box in the upper right side of that webpage.

**Q17: What waterbodies in Alaska qualify as a high quality water that constitutes an Outstanding Natural Resource Water (ONRW)?**

A17: Currently the state has not developed an official Outstanding Natural Resource Water, ONRW, or Tier 3 waterbody list in accordance with the state’s Antidegradation policy found at 18 AAC 70.015. Until an official list is developed any waterbody which is located within a national or state park or wildlife refuge is determined to be a ONRW.

**Q18: In accordance to Section 2.1.5 of the ACGP what additional submittal requirements are necessary to receive authorization to discharge construction storm water in those project areas which discharge to a ONRW?**

A18: The applicant should contact ADEC thirty (30) calendar days prior to the planned start of construction as well as develop and submit a site-specific antidegradation analysis to be submitted with the SWPPP fourteen (14) calendar days prior to filing the NOI.

**Q19: The 2011 Alaska Construction General Permit (ACGP) says that discharges of dredged or fill material into waters of the U.S. requiring federal authorization in a U.S. Army Corps of Engineers Clean Water Act (CWA) section 404 permit are not authorized under the 2011 ACGP. What does this mean in terms of getting permit authorization under the ACGP for the discharge of pollutants from a construction site?**

A19: It means that discharges authorized by a Corp of Engineers' CWA Sec 404 permit which are generally for the placement of dredge or fill materials directly into waters of the US are not authorized by the APDES Stormwater Construction General Permit, which represents CWA Section 402. Section 402 authorizes the discharge of wastewater containing pollutants into waters of the US.

The CWA contains two different permitting programs: (1) Section 402 specifies the requirements for discharge permits under the National Pollutant Discharge Elimination System (in Alaska this program is called the Alaska Pollutant Discharge Elimination System or APDES permit program) which address the discharge of pollutants to waters of the United States, and (2) Section 404 specifies requirements for permits to address the discharge of dredged or fill material into navigable waters of the United States. CWA Sections 402 and 404 are mutually exclusive, i.e., Section 404 permits regulate the discharge of dredge and fill materials and CWA Section 402 permits regulate the discharge of pollutants to waters of the U.S. except as provided under Sections 318 (addressing aquaculture) and 404 of the Clean Water Act. The APDES program primarily focuses on water quality, and the CWA Section 404 program focuses on the impacts of dredge and fill placement in waters of the United States, including wetlands and aquatic resources. While complementary, each permit has a distinctly different focus and approach.

A particular construction site may need separate authorizations to discharge under both a CWA Section 404 permit (addressing the discharge of dredge or fill material), and the 2011 ACGP (addressing the discharge of pollutants in storm water runoff from a one (1) acre wetland fill project). This one acre fill project would require a 404 permit for the placement of fill within a wetland as well as a Construction General Permit, ACGP, for

the one acre disturbed area which could have storm water discharges to the wetland. The permittee must then comply with the terms and conditions of both permits.

**Q20: What is meant by a “larger common plan of development or sale?”**

A20: A “larger common plan of development or sale” is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. For example, if a developer buys a 20-acre lot and builds roads, installs pipes, and runs electricity with the intention of constructing homes or other structures sometime in the future, this would be considered a larger common plan of development or sale. If the land is parceled off or sold, and construction occurs on plots that are less than one acre by separate, independent builders, this activity still would be subject to storm water permitting requirements if the smaller plots were included on the original site plan.

**Q21: Under what size restrictions does the larger common plan of development or sale stipulation come into play?**

A21: A permit is required if one (1) or more acres of land will be disturbed, regardless of the size of any of the individually-owned or developed sites.

**Q22: What is the definition of “Common Plan”?**

A22: “Common plan” is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. You must still meet the definition of operator in order to be required to get permit coverage, regardless of the acreage you personally disturb. As a subcontractor, it is unlikely you will require permit coverage.

**Q23: How can I tell if my project is part of a “Larger Common Plan of Development or Sale”?**

A23: If your smaller project is part of a larger common plan of development or sale that collectively will disturb one or more acres (e.g., you are building on six ½-acre residential lots in a 10-acre development or are putting in a fast food restaurant on a ¾-acre pad that is part of a 20 acre retail center) you need permit coverage. However, where only a small portion of the original common plan of development remains undeveloped and there has been a period of time where there is no ongoing construction activities (i.e., all areas are either undisturbed or have been finally stabilized), you may

re-evaluate your individual project based on the acreage remaining from the original “common plan.” If less than five but more than one acre remains to build out the original “common plan” permit coverage may still be required, but you can treat your project as part of a “small” construction activity and may be eligible for the waivers available for small construction activities (e.g., one of six lots totaling 2 acres in a 50 acre subdivision can be treated as part of a 2 acre rather than 50 acre “common plan”). If less than one acre remains of the original common plan, your individual project may be treated as part of a less than one acre development and no permit would be required.

**Q24: When Can You Consider Future Construction on a Property to be Part of a Separate Plan of Development or Sale?**

A24: After the initial “common plan” construction activity is completed for a particular parcel, any subsequent development or redevelopment of that parcel would be regarded as a new plan of development. For example, after a house is built and occupied, any future construction on that lot (e.g., reconstructing after fire, adding a pool or parking area, etc.), would stand alone as a new “common plan” for purposes of calculating acreage disturbed to determine if a permit was required. This would also apply to similar situations at an industrial facility, such as adding new buildings, a pipeline, new wastewater treatment facility, etc. that was not part of the original plan.

**Q25: What If the Extent of the Common Plan of Development or Sale is Contingent on Future Activities?**

A25: If you have a long-range master plan of development where some portions of the master plan are a conceptual rather than a specific plan of future development and the future construction activities would, if they occur at all, happen over an extended time period, you may consider the “conceptual” phases of development to be separate “common plans” provided the periods of construction for the physically interconnected phases will not overlap.

**Q26: What if the “Common Plan of Development or Sale” Actually Consists of Non-Contiguous Separate Projects?**

A26: There are several situations where discrete projects, that could be considered part of a larger “common plan,” can actually be treated as separate projects for the purposes of permitting:

Where discrete construction projects within a larger common plan of development or sale are located  $\frac{1}{4}$  mile or more apart and the area between the projects is not being disturbed, each individual project can be treated as a separate plan of development or sale provided

any interconnecting road, pipeline or utility project that is part of the same “common plan” is not concurrently being disturbed. If a utility company was constructing new trunk lines off an existing transmission line to serve separate residential subdivisions located more than ¼-mile apart, the two trunk line projects could be considered to be separate projects.

**Q27: If a contractor has permit coverage as part of a larger common plan of development or sale, when the project is done does a Notice of Termination (NOT) need to be filed by this individual operator?**

A27: An NOT needs to be filed for each permitted section of a larger common plan of development or sale corresponding to the NOIs that were submitted for that project.

**Q28: Are two projects on contiguous parcels, managed and operated by two separate entities, considered to be part of a larger common plan of development or sale?**

A28: If there is documentation that the two projects operate separately, they would be considered two separate developments, rather than a larger common plan of development or sale. However, if there is documentation or an announcement (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, etc.) that the projects operated as a single unit of development they would be considered part of a larger common plan of development or sale.

**Q29: If a developer has 4 acres and sells off a ½ acre lot to another developer, does the new developer need a permit even though that lot is less than 1 acre?**

A29: Yes, because the ½-acre lot is part of a larger common plan of development or sale that is larger than 1 acre.