



## Storm water isn't just a California thing...

While storm water and environmental regulations may seem just like a California thing, it's actually a nationwide (and worldwide for that matter) concern. Some may make the argument that California has some pretty strict requirements and write it off as "it's California!", but in reality, all of the 50 States have some form of a storm water permit put in place for construction activities, and while some states may not have a comparatively relaxed storm water program, others are even more prescriptive when it comes to storm water regulations. In this month's edition of **The Monthly Dirt**, in honor of Independence Day and the birthday of our nation, we're going to take a look at nationwide storm water regulations for those in the construction sector.

**Federal Permits:** Governing over the whole of the United States since 1972, as put into place by both chambers of the Congress, overriding President Nixon's initial veto of the Clean Water Act due to "exorbitant spending", the National Pollutant Discharge Elimination System became the basis of storm water regulations. "The '60s had been marked by some truly horrific revelations regarding water pollution. A 1968 survey revealed that pollution in the Chesapeake Bay resulted in millions of dollars of lost revenue for fisherman, while a 1969 study found that bacteria levels in the Hudson River to be at

170 times the legal limit. The same year, pollution from local food processing plants killed 26 million fish in one lake in Florida, the largest fish kill on record, and an oil slick resulted in an infamous fire on the Cuyahoga River near Cleveland. When President Richard Nixon established the Environmental Protection Agency in 1970, it was clear that water pollution would be one of its top priorities. Though Nixon was generally very proactive on environmental issues, he vetoed the Clean Water Act, even after it sailed through both houses of Congress, on the grounds that its price tag was too high. The legislature overruled his veto the following morning, and the bill became law on October 18, 1972."

According to the US EPA, "The Clean Water Act prohibits anybody from discharging "pollutants" through a "point source" into a "water of the United States" unless they have an NPDES permit. The permit will contain limits on what you can discharge, monitoring

and reporting requirements, and other provisions to ensure that the discharge does not hurt water quality or people's health. In essence, the permit translates general requirements of the Clean Water Act into specific provisions tailored to the operations of each person discharging pollutants." The NPDES Permit is considered a Federal Permit.

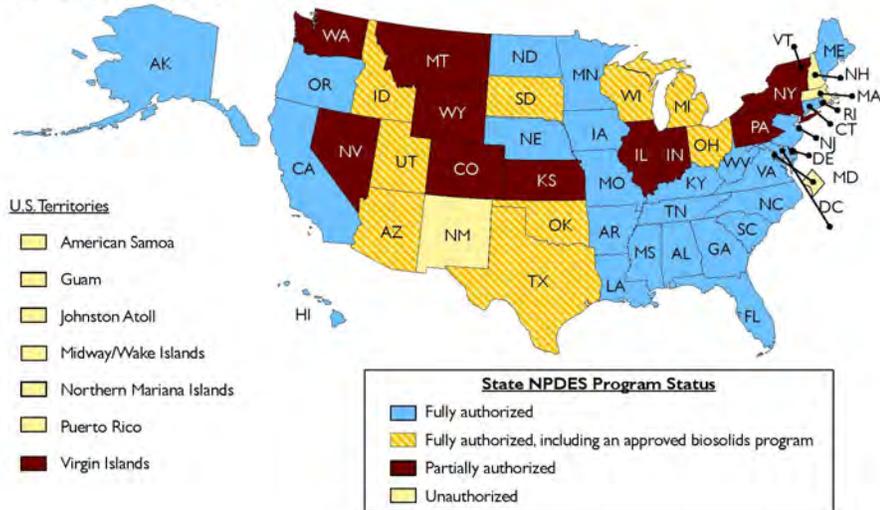
**State Permits:** States, however, can opt to either fall under the Federal Permit or adopt their own uniquely tailored programs. "All NPDES permits must meet minimum technical and water quality-based requirements of the Clean Water Act (CWA). Permit requirements for authorized NPDES States, however, may vary considerably because of State-specific requirements. Permittees in authorized NPDES States should consult with their permitting authorities regarding particular State conditions."<sup>2</sup> That's where the California Construction General Permit comes into the picture. As do other state specific permits. However, some states opt to not have their own state specific permit and just fall under the Federal Permit. The states under the Federal NPDES Permit are Massachusetts, New Hampshire, and New Mexico.



1969 Cuyahoga River Fire

# NPDES Program Authorizations

(as of July 2019)



NPDES Permit Writers' Course



According to the California State Water Board, “The NPDES Program is a federal program which has been delegated to the State of California for implementation through the State Water Resources Control Board (State Water Board) and the nine Regional Water Quality Control Boards (Regional Water Boards), collectively Water Boards. In California, NPDES permits are also referred to as waste discharge requirements (WDRs) that regulate discharges to waters of the United States.” The State of California has taken the responsibility of meeting the requirements of the NPDES Permit as well as tailoring the storm water permitting programs to California’s unique environmental needs. The Construction General Permit is just one of several branches of the NPDES Permits that are authorized in California. The Industrial General Permit and the MS4 Permits are also branches of the Federal Permit as authorized in California.

**State To State Variations** – Not only do different states have different state specific permits, or fall under the Federal NPDES Permit, but storm water terms, implementation of the Permit, and regulations can vary quite a bit from state to state.

**Certifications:** Each state seems to have varying requirements for certifications. In some states, no certification is needed to prepare a SWPPP or do inspections. For some states, the owner of the project is the one who has to write the SWPPP. Other

states require someone who is a licensed and credentialed individual with the state. While quite a few states require “Qualified Personnel” which overall seems to be defined as a person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact storm water quality, the effectiveness of any erosion and sediment control measures selected to control the quality of storm water discharges from the construction activity and is familiar with the State’s SWPPP requirements as a means to implement this permit. But as a whole, most states allow anyone to write a SWPPP, while states requiring credentials and training are in the minority.

**Storm Water Plans:** Storm Water Pollution Prevention Plan, Erosion and Sediment Control Plan, Construction Best Management Practices Plan, Pollution Prevention Plan... no matter the name, these storm water plans, across the board, usually have the same outcome - making sure storm water is kept clean and erosion and sedimentation and pollution don’t occur at the construction site to the detriment of nearby Waters of the United States.

**Inspections:** These come in all shapes and sizes for various states. Some states being more rigid than others in this area. Florida is one of those states with very specific and rigid inspection requirements.

In Florida, inspections are required **every 7 calendar days (even on non-workdays)** for jobsites. Starting when their permit is active under the CGP until completion. Inspections are also required within 24 hours after a 1/2 inch of rainfall. If a rain event occurs on a weekend or leading up to the weekend, the inspection must still occur, even if the inspection falls on a Saturday or Sunday. Inspections are to be made on-site and retained for 3 years after the NOT is submitted and approved. Inspections are to occur weekly until the permit is terminated through an NOT. Maintenance needs of BMPs are immediately reported by the inspector to the on-site manager, or fixed if the inspector has the ability to do so. Florida inspectors need to be a Florida Stormwater Erosion and Sedimentation Control Inspector- a certified person fulfilling the requirements of the Department of Environmental Protection.

State	Regulating Agency	Permit	SWPPP Template Available	Who Can Prepare a SWPPP
Alabama	Alabama Department of Environmental Conservation	Florida Construction General Permit (FCGP) (402-2-1-1) (2011)	Yes, <a href="#">Alabama Department of Environmental Conservation</a>	“Qualified Person” A person knowledgeable in the principles and practice of erosion and sediment control who possesses the skills to assess conditions at the construction site that could impact storm water quality, the effectiveness of any erosion and sediment control measures selected to control the quality of storm water discharges from the construction activity and is familiar with the State’s SWPPP requirements as a means to implement this permit.
Arizona	Arizona Department of Environmental Quality	Construction Permit for Stormwater Pollution Prevention (SWPPP) (402-2-1-1) (2011)	Yes, <a href="#">Arizona Department of Environmental Quality</a>	None
Arkansas	Arkansas Department of Energy & Environment	Construction Erosion Prevention (CEP) (402-2-1-1) (2011)	Yes, <a href="#">Arkansas Department of Energy &amp; Environment</a>	“Qualified Personnel” A person knowledgeable in the principles and practice of erosion and sediment control who possesses the skills to assess conditions at the construction site that could impact storm water quality, the effectiveness of any erosion and sediment control measures selected to control the quality of storm water discharges from the construction activity and is familiar with the State’s SWPPP requirements as a means to implement this permit.

For a great overview of all 50 states and their permits, SWPPP requirements, and regulating agency, check out this comprehensive table of [Construction SWPPP Development Requirements by State](#). If you’re wondering where this table came from, it’s a sneak preview from an erosion text book written by John Teravskis that is in it’s final stages of publishing. Stay tuned for more information coming soon.

<sup>1</sup><https://www.history.com/this-day-in-history/clean-water-act-becomes-law>

<sup>2</sup>[https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/epa\\_q&a.pdf](https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/epa_q&a.pdf)

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**The Monthly Dirt**

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A large white graphic of a water drop with a blue '@' symbol inside it, positioned centrally over the word 'ENVIRONMENTAL'.

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