

# Maintenance or Construction:

**Does My Project need an NPDES Permit?**

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# CGP coverage required for...

**Storm water discharges** from construction activities that disturb 1 acre or more in the larger common plan of development or sale.

## CGP:

- Authorizes discharge of storm water to surface water of the state (See OAC 3745-1-02 for definition)
- Not required for **discharges to Combined Sewer Systems**
- Authorizes several types of non-storm discharges :
  - fire fighting, hydrant/waterline flushing, lawn watering, irrigation drainage, routine external building washdown & pavement washwater (no detergent/no spills/no leaks), trench dewatering
- Other types of discharges are not covered & are illicit discharges
  - Rinsing paint brushes, concrete rinse, vehicle wash, leachate, hydro-demolition water

# CGP coverage is required for...

Storm water discharges from **construction activities** that disturb 1 acre or more in the larger common plan of development or sale.

**Construction Activities** are:

- Any earth disturbing activity (exposes soil), including:
  - Clearing
  - Grading
  - Grubbing
  - Excavating
  - Filling
- Except: agriculture & silviculture
  - CGP for barns: Yes. Planting a vineyard: No. Pond? Depends on the purpose...
  - Logging to prep for road or subdivision is not silviculture.
  - Oil & Gas Exploration (up to refinery or to gateway)

# CGP coverage is required for...

Storm water discharges from construction activities that **disturb 1 acre or more in the larger common plan of development or sale.**

## Larger Common Plan of Development or Sale:

- “A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan”
- US EPA: “ ‘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 that construction activities may occur”
- **City runs sewer line or adds turning lane for new Dollar General or new Wal-Mart:** must consider the total land being disturbed by both projects

# CGP coverage is required for...

Storm water discharges from construction activities that **disturb 1 acre or more in the larger common plan of development or sale.**

## Larger Common Plan of Development or Sale:

- Need to consider spoil areas, staging areas, borrow sites
- A public body need not consider all their construction projects within their entire jurisdiction to be part of an overall "common plan." ...
- For example, construction of roads or buildings in different parts of a state, city, military base, university campus, etc. can be considered as separate "common plans." Only the interconnected parts of single project would be considered to be a "common plan" (e.g., a building and its associated parking lot and driveways, airport runway and associated taxiways, a building complex, etc.)

-US EPA

# CGP coverage is required for...

Storm water discharges from construction activities that **disturb 1 acre or more in the larger common plan of development or sale.**

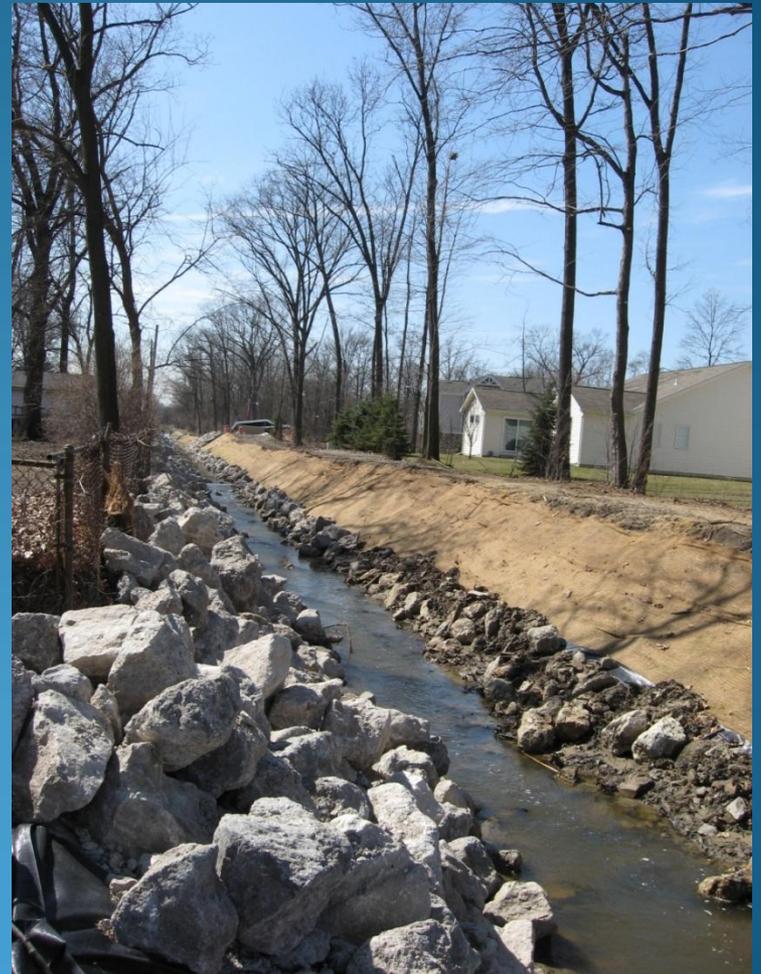
## **Larger Common Plan of Development or Sale:**

- Where discrete construction projects within a larger common plan of development or sale **are located at least 1/4 mile 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.
- **Example:** A utility company is constructing new trunk lines off an existing transmission line to serve separate residential subdivisions located **more than 1/4 mile apart**. The two trunk line projects could be considered to be separate projects.

# CGP coverage is **not** required for...

Routine Maintenance which disturbs  
< 5 acres

The definition of small construction at 40 CFR 122.26(b)(15)(i) states:  
"Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility."



# CGP coverage is **not** required for...

Routine Maintenance which disturbs < 5 acres

- To maintain original purpose
- Land disturbance should not go beyond original footprint of facility



# For Road Maintenance Activities...

## Routine Maintenance which disturbs < 5 acres:

- Berm Repair or Topsoil Placement Along Shoulders - placing berm material or topsoil on shoulders adjacent to pavement to eliminate drop-offs;
- Bridge Abutment Repairs;
- Bridge Deck Overlays;
- Bridge Deck Replacement;
- Chip Sealing - placing asphalt or polymer binder and stone on existing roads;
- Culvert Repair/Lining - repairing or lining existing culvert maintaining same line, grade, and hydraulic capacity and within USAC Nationwide Permit (NWP) #3 parameters;
- Culvert Replacement - replacing a culvert with the same line, grade, and hydraulic capacity and within USAC NWP #3 parameters;

# For Road Maintenance Activities...

## Routine Maintenance which disturbs < 5 acres:

- Curb Repairs - repairing existing curbing along a roadway;
- Ditch Cleanout - maintaining or restoring original flow line and cross-section only;
- Fence Repair/Replacement;
- Full Depth Pavement Repairs - isolated repairs of pavement build-up down to sub-grade (soil);
- Guardrail Installation/Replacement - installing or repairing with minor grading work to create proper grade for end assemblies;
- Lighting Maintenance;
- Linear Grading - reshaping of graded shoulders to establish proper drainage away from pavement;
- Loop Detector Repairs - repairing loop detectors in existing pavement;
- Noise Wall Repair;
- Partial Depth Pavement Repairs - isolated repairs of surface courses of pavement;

# For Road Maintenance Activities...

Routine Maintenance which disturbs < 5 acres:

- Pothole Filling;
- Resurfacing - replacing several inches of asphalt wearing course by milling existing asphalt and replacing with new;
- Sign Repair/Maintenance - installing or repairing traffic signs and poles/posts;
- Signal Installation/Maintenance - installing or repairing traffic signals and poles/posts; and
- Tree/Brush Removal.

Projects with more than 1 activity from this list shall be limited to a total area < 5 acres – look at it collectively.

Projects that involve an improvement and maintenance = improvement, & 1 acre threshold applies.



Enclose Roadside Ditch :  
Improvement



Bridge Deck Replacement :  
Routine Maintenance





Adding third lane?  
Widening bridge? -  
Improvement

Full depth pavement repair?  
Replace curb, sidewalk? - Routine  
Maintenance & no permit as long as  
< 5 acres.

But, if you widen the street, add  
drainage, enlarge drainage -  
Improvement.



If a project only includes full depth pavement replacement, does not add any impervious area and contains no seeded area, such as a downtown reconstruction, is an NOI required if the total area being reconstructed is > 1 acre?

If the pavement replacement stays within the original footprint and remains < 5 acres, Ohio EPA will consider it routine maintenance and not require CGP coverage. If this activity is done in conjunction with other routine maintenance activities, CGP coverage will not be required as long as the total earth disturbance remains less than 5 acres.

**A turn lane is added to <5 acre road project?** Since the addition of a new lane will expand the original footprint, a permit will be required if the earth disturbance is 1 acre or more.

**What about replacing a 24" storm tile with another 24" storm tile?** Considered routine maintenance. As long as this construction activity disturbs less than 5 acres, no permit is required.

**If I replace a 24" tile with a 54" tile or relocating the 24" tile?** These are not considered routine maintenance. In these scenarios, the 1 acre earth disturbance threshold is applicable when determining whether or not to submit an NOI application.

**Replace v-shaped or trapezoidal ditch with overwide or 2 stage ditch?** Even if originally line and grade are maintained, this generally results in increased capacity. Therefore not routine maintenance and the 1 acre threshold is applicable.

Is this Routine Maintenance?



# CGP may not be required, but...

- Sediment, erosion, and non sediment controls may still be required:
  - Under MS4 NPDES permit, Pollution Prevention for Municipal Operations MCM requires that the MS4s implement BMPs on their construction projects
  - In Combined Sewer Areas, WWTP NPDES permit requires the use of controls to maintain the capacity of the system, in order to minimize the impact of CSOs
- Director may designate sites that have potential to impact water quality



# Who obtains CGP coverage?

All **operators** must be covered



An **operator** is either:

- Party with operational control over construction plans and specifications, including the ability to modify the plans
- Party with day-to-day operational control of activities necessary to comply with the SWP3 or other permit conditions
- **Generally: Public Entity, Company, Developers, General Contractors, Home Builders**

# What does CGP require?

## Develop SWP<sub>3</sub> & implement BMPs

### SWP<sub>3</sub>

- Drawings and Narrative
  - Which **Best Management Practices (BMPs)** will be implemented?
  - Where will they be installed?
  - When will they be implemented during the sequence of construction?
  - How will they be built?
  - What are their maintenance requirements?
- Essential Components
  - **Sediment & Erosion Controls** - Permit guides the selection of these controls and requires them to be implemented within certain timeframes
  - **Non-Sediment Pollution Controls** - To address issues such as cement washout, saw “juice”, fuel tank storage areas, waste disposal, trench dewatering, contaminated soils/water, drilling slurries, etc.
  - **Post-Construction Storm Water BMPs** - Permanent features of the site which improve the quality of storm water runoff from the developed site. Must include O&M plan: who inspects/maintains, maintenance tasks & schedule, any needed legally binding maintenance easements & agreements, map showing easements.

**Questions/Comments?**

# For More Information...

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