

# Annual Permit Guidance Document

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## INTRODUCTION

Land disturbance activities for similar, consistent and repetitive maintenance and installation projects are relatively short term, frequent in occurrence, and have the same type of waste discharge to manage. These repetitive projects typically use the same or substantially similar design and construction process, require the same operational Best Management Practices (BMPs), and have been routinely constructed by the owner or on behalf of the owner by vetted contractors. Generally, the projects are either constructed by a public agency or for the 'public good'. Typical pollutants of concern at these sites are sediment, wastewater generated from concrete washout operations, and varying amount of waste materials. These pollutants can be managed using specified erosion and sediment control BMPs and materials management good housekeeping BMPs.

To streamline the permitting process, SEMSWA has the authority to issue an **Annual Permit** (Appendix A) for this category of land disturbance activity under the *GESC Permitting Policy*. Project Owners apply for an Annual Permit and obtain authorization to conduct the activity without an individual permit. A Fact Sheet, a set of Special Conditions detailed on the Permit application, and a 'typical' detail of construction BMPs with standard notes will constitute the GESC Plan and Report per the approved GESC Manual requirements for construction site controls. Standard Operating Procedure (SOP) documents have been prepared for each specific type of activity carried out under an Annual Permit.

This Guidance Document will detail the application process, and provide an overview of inspection, enforcement and closeout procedures for the Annual Permit category of land disturbance. Additionally, this document will provide conditions under which a land disturbance activity may trigger the GESC Manual criteria for an individual Standard GESC permit, but still be able to utilize the abbreviated Annual Permit with conditions.

At any time, a construction site permitted with an Annual Permit can be upgraded by the Construction Inspections Manager to require an individual permit when conditions indicate the land disturbance activity has the potential to adversely impact drainage patterns, and must be managed with an individual permit to prevent sedimentation of the stormwater system or a direct discharge to a receiving water.

## ANNUAL PERMIT DESIGNATION

The basis for allowing an Annual Permit is the implicit agreement between SEMSWA and the Project Owner that the Contractor(s) under contract will be held to an appropriate standard of performance regarding BMP installation and maintenance. For this reason, the Annual Permit will be issued to the Project Owner, not the Contractor, although the payment of the Annual Permit fee may be accepted from an Owner's Contractor. Issuance of an Annual Permit constitutes acceptance by the Project Owner of the BMP installation and maintenance requirements as outlined in the Fact Sheet and illustrated on the 'typical' detail with standard notes, as well as the Special Conditions specified on the Annual Permit application. The issuance of the Annual Permit also constitutes acceptance by the Project Owner of the requirement for oversight of Contractor(s) activities to ensure the Contractor(s) have the ability to install and maintain functioning BMPs.

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It is anticipated that the Owner is familiar with their Contractor abilities regarding BMP installation and repair. However, if a low bid process is contemplated such that the Contractor may be unknown to the Owner, it is anticipated that the bid process will address a Contractor's ability to work favorably under GESC conditions.

## **GESC MANUAL CRITERIA CORRELATION WITH ANNUAL PERMITS**

Presently, a Standard GESC Permit may be required by GESC Manual criteria for land disturbance activities without the option of a streamlined permit process such as the Annual Permit. The GESC Manual criteria that may trigger a Standard GESC Plan/Report for a project include:

- 50 cubic yard of excavated material or fill
- Any land disturbance of 1.0 acre or more
- Any clearing, grubbing, grading or filling operations within 100 feet of a drainageway
- Greater than 1,000 linear feet for utility projects
- New development and redevelopment (regardless of size)

### **50 cubic yard**

It is anticipated that an Annual Permit approach will be adequate to manage specific sites that exceed the 50 cubic yard criteria with the level of detail provided on the Fact Sheet, Permit Special Conditions, and 'typical' plan with standard notes. The '50 cubic yard' criteria was envisioned to account for the movement and placement of a volume of material by an owner, contractor, or a homeowner, in a short amount of time with little thought given to the potential impact on the stormwater system. The largest impact associated with this material movement is a change to a drainage pattern, so the GESC review and permitting process would be a way to limit or mitigate potential impacts. In SEMSWA's experience, the volume of material is less of a factor than the where, when, final result and the overall management of the site. For this reason, when a consistent, repetitive land disturbance activity with a standardized construction method exceeds the '50 cubic yard criteria', the permitting process will be evaluated as to proximity to a drainageway and stormwater infrastructure; complexity of work and waste materials; and size, duration and scope. This evaluation will determine if the construction activity can be permitted with a streamlined process such as the Annual Permit.

### **Any Disturbance of 1.0 acre or more**

It is anticipated that an Annual Permit will not be generally available for construction activities that disturb over an acre. Projects over an acre trigger a State Construction Permit, which is managed by the State using a Stormwater Management Plan (SWMP), providing for a site-specific grading and erosion control plan detailing appropriate BMPs, and may in fact trigger a post-construction permanent BMP if impervious area is added to the site. The Annual Permit 'typical' plan may not contain the level of individual site detail to meet the State Permit SWMP requirements that the Owner/Contractor needs to provide for site controls. However, those experienced Owners that have an Annual Permit for the same type of project under one acre, may be able to use the 'typical' detail amended to provide the level of detail necessary for a SWMP along with a drainage considerations narrative, and still be permitted under the Annual Permit process if a permanent BMP is not needed. If an Annual Permit process is determined by the SEMSWA Construction Inspections Manager to not be applicable to the site, the Owner may still be able to use a Small Site streamlined process, as outlined in the Small Site Guidance Document.

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## **Any clearing, grading, grubbing or filling operations within 100 feet of a drainageway**

It is anticipated that an Annual Permit will not be generally available for construction activities that are within 100 feet of a drainageway. Projects within 100 feet of a drainageway may require a Floodplain Development Permit to ensure that the proposed activities are in compliance with approved floodplain management standards. Drainageway corridors comprise an important natural resource with habitat, open space, and aesthetic value, and any construction activity requires special care and attention. It is critical that construction activities be designed to reduce any adverse impacts, and that SEMSWA, State, and Federal permitting processes be complied with. The Annual Permit 'typical' detail may not provide the level of individual site engineering necessary to meet this floodplain permitting requirement. However, those experienced Owners that have an Annual Permit for the same type of project outside of a floodplain, may be able to use the Annual Permit process within the floodplain if the vegetation between the construction limit and the drainageway is of sufficient length, slope, coverage, and thickness (e.g. turf) to impede the transport of sediment and wastes to the drainageway, and if the activity can be constructed under a No-Impact Floodplain Development Permit issued by SEMSWA.

Additionally, projects that are constructed in a drainageway will require a Floodplain Development Permit to ensure that the proposed activities are in compliance with approved floodplain management standards. Some of these drainageway projects, typically done by Urban Drainage and Flood Control District (UDFCD) with on-call Contractors they have worked with for 10+ years, can effectively be managed with the Annual Permit process with a No Impact Floodplain Development Permit if there is no impact to the floodplain and conditions are returned to those before construction. If a Standard Floodplain Development Permit is determined to be required for construction activities in a drainageway, meaning there is an impact, then the project will be evaluated to see if the level of detail of the Annual Permit 'typical' detail can be amended to address floodplain issues with associated calculations and analysis (for example either an 'equal conveyance' certification or a certification that the channel will be returned to UDFCD maintenance eligible conditions) and if so, the project may still be able to use the Annual Permit process. The Floodplain Administrator will collaborate on this analysis and will determine the applicability of the floodplain permit type and the level of individual site details/calculations necessary to be in compliance with approved floodplain management standards. If an Annual Permit process is determined to not be applicable to the site, the Owner may still be able to use a Small Site streamlined process, as outlined in the Small Site Guidance Document.

## **1,000 linear feet**

It is anticipated that Annual Permits will be available for several types of dry utility projects that exceed the '1,000 lineal feet' criteria, and may be available for other utility projects as SEMSWA evaluates the impact of common practices associated with other utility categories on water quality. The inclusion of utility projects that exceed the 1,000 linear feet permitting process will be evaluated as to wet or dry; private property or public Right-of-Way; proximity to a drainageway and stormwater infrastructure; complexity of work and waste materials; staging and access areas; width of trench; duration and scope; and the extent of the re-vegetation required for site stabilization. This evaluation will assist SEMSWA in determining if the utility construction activity can be permitted with a streamlined approach under an Annual process.

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## **New development or redevelopment**

It is anticipated that selected projects may be able to proceed through an Annual Permit streamlined GESC process, while dovetailing seamlessly with a land use planning process. Some of the park and recreation district maintenance and installation construction activities will use a land use agency planning process as they design and seek approval for the public project. These land development cases are required to meet a formal construction drawing (CD) process that requires an engineered approach to the construction activity. The Annual Permit 'typical' plan for work areas will provide the level of detail to meet the engineered drawing requirements.

## **PERMIT ISSUANCE**

The Annual Permit will be applied for by Project Owners at the beginning of the calendar year, and will expire on December 31<sup>st</sup> each year. A completed and signed Annual Permit and payment of the Annual Permit fee will constitute issuance of the Annual Permit. The Annual Permit is contained in Appendix A. A Fact Sheet and the SEMSWA 'typical' detail with standard notes will be attached to the Project Owner's copy of the issued Annual Permit and will constitute the approved GESC Plan and Report for the project(s).

Presently, Annual Permits have been determined to be applicable to the following activities:

- Selected dry utility maintenance and installation operations
- Remedial single-reach channel and bank stabilization
- Routine maintenance activities for sediment removal, and infrastructure repair/replacement
- Park and recreation amenity maintenance and selected installation operations

Fact sheets and a 'typical' detail with standard notes have been prepared and are attached to the applicable activity's Annual Permit SOP. It is envisioned that other activities will be included in the Annual Permit process in the future as they are evaluated. At the time of inclusion in the Annual Permit process, the activities will require a Fact Sheet and a 'typical' detail with standard notes, and an SOP will be prepared for the activity.

In the event that a change or modification to the 'typical' BMP detail needs to be implemented, SEMSWA will be notified of the change during the Annual Permit application process or when anticipated to be utilized in the field. A new equivalent BMP detail sheet for the site-specific BMP being requested by the Applicant will be submitted along with the permit application. SEMSWA will monitor the equivalent BMP and may include that BMP in future details to be used for the activity.

Construction of Annual Permit projects will be completed by Contractor(s) known to the Project Owner to be fully trained in BMP installation and maintenance. The Project Owner will provide the Contractor(s) with a copy of the Annual Permit with Special Conditions, including the attached Fact Sheet and the 'typical' plan and standard notes.

## **INSPECTION, ENFORCEMENT AND PERMIT CLOSEOUT**

Annual Permit activities are initiated by Owners desiring to perform maintenance or installation functions that are routinely or consistently constructed, repeated several times a year or annually, will

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have a short construction time, are supported by a standardized construction approach, and by their repetitive nature are constructed by experienced Contractors familiar to the Owner. This then allows SEMSWA the ability to rely more heavily on the Project Owner and experienced Contractor for inspection and oversight that will result in highly managed sites. Depending on the type of Annual Permit activity, there may or may not be a preconstruction meeting required, the work site location(s) may or may not be requested, and a notification of work commencement may or may not be necessary. Specific details regarding preconstruction meetings, location and work commencement notification, and inspection, enforcement, and closeout procedures for each Annual Permit type of activity is contained in the applicable SOP.

If a preconstruction meeting with SEMSWA to discuss BMP installation is not required, but desired, staff is still available to confer on site controls. SEMSWA inspections staff are also available to provide compliance assistance to the Contractor upon request.

## Inspection

SEMSWA inspectors will have jurisdiction over any construction site that is being covered under an Annual Permit. SEMSWA inspectors will be periodically monitoring these Annual Permit construction sites with either unscheduled drive-by visual inspections, or more formal inspections, as applicable. The County/City Right-of-Way (ROW) Inspector will also be monitoring those sites permitted in the ROW for compliance as part of their normal inspection procedures for ROW permits. When an inspector monitors a site and observes adherence to the Permit Special Conditions, Fact Sheet and 'typical' detail BMPs, no contact is necessary with the Project Owner or Contractor unless a formal inspection is dictated by the activity, such as work in the waterway. Subsequent visual inspections will confirm continued adherence to the required BMP controls.

All work in waterways, or within 100 feet of a drainageway, will trigger more formal inspections to monitor conditions. The SEMSWA inspector will monitor land disturbance activities and verify adherence to the Annual Permit conditions, applicable Fact Sheet, and 'typical' plan. When the SEMSWA inspector monitors a construction site in the waterway or within 100 feet of the drainageway, formal inspection results may be discussed directly with the Contractor.

## Enforcement

When a SEMSWA inspector monitors a site and observes non-adherence to the required BMPs, the inspector will let the Contractor know what is necessary to bring the site into compliance. On a follow-up inspection, if the BMPs have not been installed and adequately maintained, and no appreciable effort has been made to manage the site, the Project Owner or local contact will be notified and the noncompliance discussed. It will be determined at that time if the project requires enforcement under the Annual Permit, including applicable re-inspection fees per the approved SEMSWA Fee Schedule, or if the Annual Permit should be revoked for a particular site and subsequently permitted under an individual permit.

If an individual permit is determined to be necessary to manage the site, an NOV for the site may be issued per the GESC Manual protocol, utility work will stop, and work will immediately commence to bring the site into compliance. A Small Site GESC plan/report and associated fees will be required

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before utility work re-commences. Since an Annual Permit in essence represents multiple Low Impact sites grouped together and represented by a 'typical' engineered drawing, the Small Site process represents the next level of individual permitting. It should be noted that this non-compliance will cost the Owner significant time and money to go through an individual permit process as compared to an Annual Permit process. If multiple Owner sites are indicated to need individual permits, revocation of the Owner's Annual Permit may be an enforcement option.

As applicable to sites permitted in the ROW, if the County/City ROW Inspector identifies non-compliance with GESC as part of their normal inspection procedure for ROW permits, SEMSWA will be notified by the City/County and enforcement procedures will be determined as stated above.

## Permit Closeout

The requirements of the Annual Permit construction BMP controls will be enforced until the project site is returned to its original condition and stabilized. Final establishment of vegetation for all projects will match the vegetation quality and quantity existing before the construction commenced. At the close of the project, all construction BMPs will be removed. The Contractor or Owner may alert SEMSWA as to the completion of the project with a phone call or email. No formal documentation closeout paperwork will be requested from the Contractor or Owner. SEMSWA will not provide any formal closeout paperwork regarding an Annual Permit site.

## OTHER SEMSWA PERMITS

Floodplain development permits are required for all activities in a floodplain. For Annual Permit activities located near a waterway, contact SEMSWA's Floodplain Program Manager to discuss location of activity and to determine next steps. The majority of Annual permitted activities are not anticipated to have any permanent impact on the floodplain, so a No-Impact Floodplain Development Permit can be issued for any work anticipated in a floodplain. For those Annual permitted activities that are determined to require a Standard Floodplain Development Permit, meaning there is an impact, then the project will be evaluated to see if the Annual Permit process can be utilized, as detailed in a previous section of this document. The Floodplain Administrator will determine the applicability of the permit type and the level of individual site details/calculations necessary to be in compliance with approved floodplain management standards. If an Annual Permit process is determined to not be applicable to the site, the Owner may still be able to use a Small Site GESC streamlined process, as outlined in the Small Site Guidance Document.

Public Improvement Permits are required for any permanent public infrastructure or improvement constructed during a land disturbance activity. The majority of Annual permitted site activities are not anticipated to have any public improvement infrastructure associated with the construction activity, so no Public Improvement Permits should be required. For those Annual permitted activities that are determined to require a Public Improvement Permit, meaning there is a permanent infrastructure improvement associated with the activity, then the permit will be obtained in conjunction with the review and approval of engineered construction drawings utilizing a separate process from the Annual GESC Permit.

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## **SEMSWA - OWNER PARTNERSHIP**

It is SEMSWA's intent to issue Annual Permits only to Owners who share SEMSWA's mission for water quality protection. It is not in the best interests of SEMSWA or the Owner to be put in a situation where an individual permit is necessary for a specific site to be in compliance with water quality goals; that level of effort does not use resources efficiently and does not promote the partnership necessary to manage all other Owner sites under an Annual Permit. If a particular Contractor is not able to comply with the Annual Permit approach, the Project Owner is encouraged to utilize a Contractor that can comply with Annual Permit conditions. Revocation of an Owner's Annual Permit is an enforcement option, but this option is not an effective use of Owner or SEMSWA resources, and it is SEMSWA's expectation that an Owner will make necessary field operational changes to meet the partnership understanding inherent in the issuance of an Annual Permit.

## **ANNUAL PERMIT FEES**

Annual Permit fees are calculated based on an amount of inspection coverage anticipated to be required for the particular Annual Permit activity. SOP documents will provide details on the fee(s) associated with a particular Annual Permit category. The annual fee is also an enforcement mechanism to ensure that any deficiency will have the monetary ability to be corrected in the event the Contractor or Owner is unwilling or unable to correct the deficiency in a timely manner. If the fee is used to correct a deficiency, any subsequent Annual Permits, if issued, may reflect an increase in cost to anticipate the need for corrective actions.