

Introduction

SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002)

October, 2017



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Construction General Permit (GP-0-15-002)

- Required by Clean Water Act (40 CFR 122.26)
- NYS DEC delegated to implement EPA's rules/regulations
- Phase I (1993) - regulate construction projects with 5 acre or more disturbances (GP-93-06)
- Phase II (2003) - regulate construction projects with 1 acre or more disturbances (GP-02-01). Current permit - GP-0-15-002
- Need for permit coverage is tied to soil disturbance associated with construction activity



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Construction General Permit (GP-0-15-002), cont'd.

- General Permit versus Individual SPDES Permit – General Permit covers similar facilities/activities
- Permit renewed every 5 years
- Fact Sheet – summary of changes
- Responsiveness Summary – response to public comments
- <http://www.dec.ny.gov/chemical/43133.html>



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Permit Application (Who needs a permit)

- Construction activities that disturb 1 or more acres of land with potential to discharge to surface waters, with some exceptions
- Projects with disturbances less than 1 acre if part of *larger common plan of development* that ultimately disturb 1 or more acres
- Construction activities in the NYC Watershed East of the Hudson that disturb 5000 SF to 1 acre
- Projects with less than 1 acre of disturbance where DEC determines need based on potential for WQ violation



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Exclusions from Needing Permit Coverage

- Soil disturbance associated with certain silviculture activity
 - Contact Regional Lands and Forest/DOW staff for assistance
- Soil disturbance associated with certain agricultural activity
 - EPA excludes construction activity associated with clearing and grading of land to grow crops. DEC applies this exclusion



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Exclusions, cont'd.

- Routine Maintenance Activity
 - See definition in Appendix A of CGP
- No potential for discharge to surface waters
 - See FAQ 2 in FAQs About Permit Requirements
- Note: DEC encourages owners to implement good erosion and sediment control practices so they do not cause or contribute to a contravention of the water quality standards



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Routine Maintenance Activity - means *construction activity* that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility, including, but not limited to:

- Re-grading of gravel roads or parking lots,
- Stream bank restoration projects (does not include the placement of spoil material),
- Cleaning and shaping of existing roadside ditches and culverts that maintains the approximate original line and grade, and hydraulic capacity of the ditch,
- Cleaning and shaping of existing roadside ditches that does not maintain the approximate original grade, hydraulic capacity and purpose of the ditch if the changes to the line and grade, hydraulic capacity or purpose of the ditch are installed to improve water quality and quantity controls (e.g. installing grass lined ditch),
- Placement of aggregate shoulder backing that makes the transition between the road shoulder and the ditch or embankment,
- Full depth milling and filling of existing asphalt pavements, replacement of concrete pavement slabs, and similar work that does not expose soil or disturb the bottom six (6) inches of subbase material,
- Long-term use of equipment storage areas at or near highway maintenance facilities,
- Removal of sediment from the edge of the highway to restore a previously existing sheet-flow drainage connection from the highway surface to the highway ditch or embankment,
- Existing use of Canal Corp owned upland disposal sites for the canal, and
- Replacement of curbs, gutters, sidewalks and guide rail posts.



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2. Is permit coverage required if there is no discharge to surface waters; i.e. runoff infiltrates into the ground?

A: If the owner can adequately demonstrate that there is no potential for a discharge from their construction site to Waters of the United States or to a municipal separate storm sewer system that discharges to Waters of the United States, the answer generally is no. Discharges of stormwater to groundwaters are exempt from permitting requirements unless the Department determines that such discharges (or class of discharges) are significant contributors of pollution. To date, the Department has not determined that construction site discharges to groundwater are significant contributors of pollution.

In order to demonstrate that there is no potential for a discharge from a construction site, the owner must perform the necessary modeling and site assessments (soil testing, infiltration test, hydrology, etc.) to support their position. The Department will require that this information be submitted for all construction sites we encounter that have not gained coverage under the general permit.

When making the demonstration that all discharges from the site would be to groundwater, the owner must consider each of the following:

- All phases of construction, including the commencement of soil disturbance with no post-construction controls in place.
- Runoff from all recorded storm events (1yr, 10 yr, 100 yr, etc.).
- Frozen ground conditions if soil disturbance is possible during periods when the ground is frozen.
- Changes in site topography resulting from grading operations (cuts and fills).



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Ineligible Construction Activities

- Residential, commercial and institutional projects that disturb 1 or more acres of **steep slope** (Soil Slope Phase E or F on Soil Survey Map) and are tributary to AA and AA-s classified waters.
- Linear transportation and linear utility projects that disturb 2 or more acres of **steep slope** (Soil Slope Phase E or F on Soil Survey Map) and are tributary to AA and AA-s classified waters.
- Construction activities that have the potential to affect an **historic property**, unless there is documentation that such impacts have been resolved (NYS Historic Preservation Act, Section 14.09)



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NYS Historic Preservation Act (SHPA)

- DEC must comply with SHPA (14.09) when issuing the Construction General Permit (CGP)
- CGP ties compliance with SHPA to permit eligibility. Part I.F.8 dictates when a construction activity is eligible for coverage and specifies documentation necessary to demonstrate eligibility
- NOI to be updated to document eligibility with SHPA
- SHPA screening /compliance required for majority of construction projects (see Attachment 2 of LOR for exclusions)



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Exclusions Construction GP/SHPA Screening

- Single family house constructed on single lot
- Utility lines (i.e. water, sewer, electric, gas, etc.) located between existing edge of road and far edge of existing drainage ditch or utility lines with some exceptions
- Repair/replacement of utilities in same trench where excavation will not exceed width and depth of existing work
- Lighting and minor drainage where no other work is needed outside previously disturbed
- Ground disturbance within 10 ft of existing 1900 century or later structures

(See Attachment 2 in Letter of Resolution (LOR))



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Ineligible Construction Activities, cont'd.

- Construction activities or discharges that may adversely affect an **endangered or threatened species** unless owner or operator has obtained a permit issued pursuant to 6 NYCRR Part 182 or the DEC has issued a letter on non-jurisdiction.
- Other – see Part I.F. (e.g. discharges that cause or contribute to violation of water quality standards, discharges that are required to obtain individual SPDES)
- Projects will typically need to apply for coverage under an Individual SPDES permit



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Obtaining Permit Coverage

- Owner must first prepare SWPPP
- For projects not subject to regulated, traditional land use control MS4, owner then submits completed Notice of Intent (NOI) to DEC Central Office, Albany
- For projects subject to regulated, traditional land use control MS4, owner submits SWPPP to MS4 for review and acceptance. Once accepted by MS4, owner submits completed NOI to Albany with completed/signed MS4 SWPPP Acceptance form



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Permit Authorization Timeframe

- For projects not subject to requirements of regulated, traditional land use control MS4 (i.e. town, city or village):
 - 5 business days if SWPPP is in conformance with technical standards and e-NOI is used
 - 10 business days if SWPPP is in conformance with technical standards and paper NOI is used
 - 60 business days if SWPPP is not in conformance with technical standards
- For projects subject to regulated, traditional land use control MS4 :
 - 5 business days with e-NOI
 - 10 business days with paper NOI



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Permit Authorization, cont'd

- For projects subject to SEQR and/or require other DEC permits, authorization not effective until owner has satisfied SEQR, obtained all necessary DEC permits, prepared final SWPPP and submitted complete NOI to DEC (wait the 5, 10 or 60 business days)



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Required SWPPP Contents

- Permit requires use of technical standards below. Deviations from “required elements” requires a demonstration of equivalence.
 - NYS Standards and Specifications for Erosion and Sediment Control (November 2016)
 - NYS Stormwater Management Design Manual (January 2015)



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Required SWPPP Components

- Tables 1 and 2 in Appendix B identify required SWPPP components by project type
 - Table 1: Erosion and sediment controls only (required for all projects)
 - Table 2: Post-construction stormwater management controls



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The following construction activities that involve soil disturbances of one (1) or more acres of land, but less than five (5) acres:

- Single family home not located in one of the watersheds listed in Appendix C or not directly discharging to one of the 303(d) segments listed in Appendix E
- Single family residential subdivisions with 25% or less impervious cover at total site build-out and not located in one of the watersheds listed in Appendix C and not directly discharging to one of the 303(d) segments listed in Appendix E
- Construction of a barn or other agricultural building, silo, stock yard or pen.

The following construction activities that involve soil disturbances of one (1) or more acres of land:

- Installation of underground, linear utilities; such as gas lines, fiber-optic cable, cable TV, electric, telephone, sewer mains, and water mains
- Environmental enhancement projects, such as wetland mitigation projects, stormwater retrofits and stream restoration projects
- Bike paths and trails
- Sidewalk construction projects that are not part of a road/ highway construction or reconstruction project
- Slope stabilization projects
- Slope flattening that changes the grade of the site, but does not significantly change the runoff characteristics
- Spoil areas that will be covered with vegetation
- Land clearing and grading for the purposes of creating vegetated open space (i.e. recreational parks, lawns, meadows, fields), excluding projects that *alter hydrology from pre to post development* conditions
- Athletic fields (natural grass) that do not include the construction or reconstruction of *impervious area* and do not *alter hydrology from pre to post development* conditions
- Demolition project where vegetation will be established and no redevelopment is planned
- Overhead electric transmission line project that does not include the construction of permanent access roads or parking areas surfaced with *impervious cover*
- Structural practices as identified in Table II in the "Agricultural Management Practices Catalog for Nonpoint Source Pollution in New York State", excluding projects that involve soil disturbances of less than five acres and construction activities that include the construction or reconstruction of impervious area

The following construction activities that involve soil disturbances between five thousand (5000) square feet and one (1) acre of land:

- All construction activities located in the watersheds identified in Appendix D that involve soil disturbances between five thousand (5,000) square feet and one (1) acre of land.

The following construction activities that involve soil disturbances of one (1) or more acres of land:

- Single family home located in one of the watersheds listed in Appendix C or *directly discharging* to one of the 303(d) segments listed in Appendix E
- Single family residential subdivisions located in one of the watersheds listed in Appendix C or *directly discharging* to one of the 303(d) segments listed in Appendix E
- Single family residential subdivisions that involve soil disturbances of between one (1) and five (5) acres of land with greater than 25% impervious cover at total site build-out
- Single family residential subdivisions that involve soil disturbances of five (5) or more acres of land, and single family residential subdivisions that involve soil disturbances of less than five (5) acres that are part of a larger common plan of development or sale that will ultimately disturb five or more acres of land
- Multi-family residential developments; includes townhomes, condominiums, senior housing complexes, apartment complexes, and mobile home parks
- Airports
- Amusement parks
- Campgrounds
- Cemeteries that include the construction or reconstruction of impervious area (>5% of disturbed area) or *alter the hydrology from pre to post development conditions*
- Commercial developments
- Churches and other places of worship
- Construction of a barn or other agricultural building(e.g. silo) and structural practices as identified in Table II in the "Agricultural Management Practices Catalog for Nonpoint Source Pollution in New York State" that include the construction or reconstruction of *impervious area*, excluding projects that involve soil disturbances of less than five acres.
- Golf courses
- Institutional, includes hospitals, prisons, schools and colleges
- Industrial facilities, includes industrial parks
- Landfills
- Municipal facilities; includes highway garages, transfer stations, office buildings, POTW's and water treatment plants
- Office complexes
- Sports complexes
- Racetracks, includes racetracks with earthen (dirt) surface
- Road construction or reconstruction
- Parking lot construction or reconstruction
- Athletic fields (natural grass) that include the construction or reconstruction of impervious area (>5% of disturbed area) or *alter the hydrology from pre to post development conditions*
- Athletic fields with artificial turf
- Permanent access roads, parking areas, substations, compressor stations and well drilling pads, surfaced with *impervious cover*, and constructed as part of an over-head electric transmission line project, wind-power project, cell tower project, oil or gas well drilling project, sewer or water main project or other linear utility project
- All other construction activities that include the construction or reconstruction of *impervious area* or *alter the hydrology from pre to post development conditions*, and are not listed in Table 1

Erosion and Sediment Control Component

- Background information on project (i.e location, type, and size)
- Site maps and construction drawings
- Description of soils (HSG)
- Phasing plan and sequence of operations
- Erosion and sediment control measures to be used
- Stabilization plans
- Maintenance inspection schedule



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Post-construction Stormwater Management Practice Component

- Identification of all practices
- Site map and construction drawings showing location
- Stormwater Modeling and Analysis Report
- Soil testing results
- Infiltration test results, if needed
- O&M plan



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General SWPPP Requirements

- Owner shall identify contractor(s) responsible for SWPPP implementation
- Contractor(s) shall identify one “trained contractor”
- “Trained Contractor” must take DEC 4-hr training course
- “Trained contractor” must be on site on daily basis during soil disturbance activities
- Sign certification statement and attach to SWPPP



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General Requirements for Owners/Operators

- Disturbing greater than 5 acres at one time:
 - Requires authorization from Region or regulated, traditional land use control MS4
 - 2 inspections per week separated by 2 full days
 - soil stabilization within 7 days
 - prepare phasing plan/ cuts and fills



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Inspection Requirements

- 2 levels
- Contractor maintenance inspection – required for all sites
- Qualified Inspector – required for all sites except, single family home, single family subdivision (less than 25% impervious cover), agricultural property construction with less than 5 acre disturbance and not in a TMDL or discharging to 303(d), and projects disturbing 5000 SF to 1 acre in NYC EOH Watershed



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Contractor Maintenance Inspection Requirements

- Contractor maintenance inspection – required for all sites
- Performed by “Trained Contractor” on daily basis in active work areas
- Ensure ESC practices are being properly maintained
- No formal inspection report required



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Qualified Inspector Inspection Requirements

- “Qualified Inspector” inspections – hired by owner
- Required for most construction projects
- Performed by PE, CPESC, RLA, individuals working under direct supervision of PE or RLA and at same company, or other endorsed individuals
- Individuals working under PE or RLA need 4 hrs training every 3 years
- Requires formal inspection report



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Termination of Coverage

- Submit Notice of Termination (NOT)
 - Total project completion: final stabilization, ESC measures removed, and post-construction controls are constructed and operational
 - Partial project completion: soil disturbance activity has ceased, all disturbed areas as of project shutdown have achieved final stabilization, ESC measures removed, and post-construction controls for completed portion of project are constructed and operational
 - Change in owner



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Termination of Coverage, Cont'd.

- Qualified inspector must sign NOT
- MS4 must sign-off on NOT for projects subject to regulated, traditional land use control MS4
- Owner shall ensure long term O&M



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MS4 General Permit

- Phase II (2003)- Required owner/operator of small MS4 to obtain permit coverage
- Need for permit coverage based on census (Urbanized Area)
- DEC has designated some MS4s (NYC EOH Watershed, LI), based on EPA criteria
- General Permit – renewed every 5 years typically
- Current Permit (GP-0-15-003) expired April 30, 2017 – SAPA extended



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Construction Activity - MS4 General Permit

- MS4 GP requires implementation of 6 Minimum Measures (MM)
- MM 4 and 5 – Construction and Post-construction
- Similar requirements to NYS DEC Construction GP (i.e. SWPPP review, site inspection, etc.)
- Regulated, traditional land use control MS4 must review SWPPP/complete MS4 SWPPP Acceptance Form



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Stormwater Webpages

Technical Standards, FAQ's

<http://www.dec.ny.gov/chemical/8694.html>

General Permit, Forms

<http://www.dec.ny.gov/chemical/43133.html>



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Questions

- Contact Information

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