



FACT SHEET

For

**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**SPDES GENERAL PERMIT
FOR STORMWATER DISCHARGES**

from

CONSTRUCTION ACTIVITY

Permit No. GP-0-10-001

Issued Pursuant to Article 17, Titles 7, 8 and Article 70
of the Environmental Conservation Law

January 2010

Introduction

The New York State Department of Environmental Conservation (NYSDEC) has prepared the new SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001). The new permit is effective on January 29, 2010. This general permit replaces the SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-08-001).

The SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001) is a five (5) year permit that covers discharges of stormwater to surface waters of the State from construction activities as defined in 40 CFR Part 122.26(b)(14)(x) and (b)(15)(i - ii).

Pursuant to Section 402 of the Clean Water Act (“CWA”), stormwater discharges from certain construction activities (including discharges through a municipal separate storm sewer system) are unlawful unless they are authorized by a National Pollutant Discharge Elimination System (NPDES) permit or by a state permit program. New York’s State Pollutant Discharge Elimination System (SPDES) is a NPDES-approved program with permits issued in accordance with the Environmental Conservation Law (“ECL”). An owner or operator of a construction activity must obtain permit coverage through either an individual SPDES permit which address the stormwater discharges or obtain coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001) prior to the commencement of construction activity.

Updates to the New York State Stormwater Management Design Manual (Design Manual)

One of the foundations of the New York State Stormwater program is the technical standards for stormwater controls. Along the same timeline as renewal of the stormwater permits, the NYSDEC is updating the Design Manual to include green infrastructure techniques. When the Design Manual is updated, an owner or operator of a construction activity that needs post-construction stormwater management practices will be required to prepare a SWPPP that includes practices designed in conformance with or equivalent to the updated Design Manual.

The increased emphasis on a holistic approach to resource protection, water quality treatment, flow volume control, maintenance cost reduction, and the dynamics of stormwater science has led to several changes in stormwater management. Carrying out stormwater management design standards for the past few years has provided the regulatory agencies, regulated entities, and design community with valuable experiences and a body of knowledge to enhance and improve urban runoff planning, methodologies, and techniques towards implementation of green infrastructure.

The term green infrastructure, previously used to describe specific water quality management practices, has expanded in recent years to include a wide array of practices at multiple scales to manage, reduce, and treat stormwater and maintain and restore natural

hydrology by infiltration, evapotranspiration, and capture and reuse of stormwater. On a regional scale, green infrastructure is the preservation and restoration of natural landscape features, such as forests, floodplains and wetlands, coupled with policies such as infill and redevelopment that reduce overall imperviousness in a watershed. On the local scale green infrastructure consists of site- and neighborhood-specific practices, such as bioretention, trees, green roofs, porous pavements and cisterns.

The value of runoff reduction by non-structural stormwater control practices or green infrastructure techniques is increasingly recognized as a critical feature for environmentally-sound development. In addition, runoff reduction through this approach can directly translate into cost savings to the developer by reducing the size of structural stormwater control and conveyance facilities. The Design Manual will provide developers and site designers with a step by step approach to implement green infrastructure practices that can reduce the volume of stormwater runoff, minimize pollutant loads from a site, and allow a development project to meet New York State's criteria simply through a more innovative site design.

The green infrastructure approach for stormwater management reduces a site's impact on the aquatic ecosystem through the use of non-structural site planning and innovative techniques. The objective is to replicate pre-development hydrology by maintaining pre-construction infiltration, peak runoff flow, discharge volume, as well as minimizing concentrated flow by using runoff control techniques to provide treatment in a distributed manner before runoff reaches the waterways or the collection system. This approach offers a distinct advantage over conventional "hard" stormwater infrastructure by reducing the production of runoff and the need for collection, storage, and treatment.

Planners and designers must address this approach in a five-step process for stormwater site planning and practice selection in the SWPPP: site planning to preserve natural features and reduce impervious cover, calculation of water quality volume for the site, calculation of runoff reduction volume by applying green infrastructure techniques, use of standard treatment practices where applicable, and finally calculation of volume and peak discharge control practices where required. (See the fourth bulleted item - *SWPPP Preparation In Conformance With Updated Design Manual* under the "Other Permit Revisions" section below)

Major Permit Revision

The Department made only one major change in this general permit compared to the previous version of the general permit (GP-0-08-001). The major change involves construction projects located in the Oscawana Lake Watershed that are required to develop a SWPPP that includes post-construction stormwater management practices (See Table 2 in Appendix B). Under the new general permit, the owner or operator of these construction activities will be required to prepare a SWPPP that includes post-construction stormwater management practices designed in conformance with the Enhanced Phosphorus Removal Standards included in the Design Manual (See Chapter 10).

Other Permit Revisions

Some of the other more significant changes with GP-0-10-001 include:

- **Duty To Provide Information** - The following language from GP-02-01 has been placed back in this permit (GP-0-10-001). The language deals with an owner or operator making certain permit documentation available to a requester. The language is located in Part VII.F. and referenced in Part II.A.4.

“The NOI, SWPPP and inspection reports required by this permit are public documents that the owner or operator must make available for review and copying by any person within five (5) business days of the owner or operator receiving a written request by any such person to review the NOI, SWPPP or inspection reports. Copying of documents will be done at the requester’s expense.”

Interested parties are reminded that the information supplied by an owner or operator in the Notice of Intent can be viewed on the Department’s Stormwater Interactive Map. The link for the Stormwater Interactive Map is: <http://www.dec.ny.gov/ismaps/stormwater/viewer.htm>

- **Keeping The SWPPP Current** - Part III.A.4 has been revised to provide additional clarification as to when an owner or operator must have their SWPPP preparer amend or update their SWPPP. The majority of the language added to this requirement was included in GP-02-01.
- **MS4 Notification of SWPPP Amendments** – Part II.C.5. requires the owner or operator of a construction activity that is subject to the requirements of a regulated, traditional land use control MS4 to notify the MS4 in writing of any planned amendments or modifications to the post-construction stormwater management practice component of the SWPPP required by Part III.A. 4. and 5. of this permit. Unless otherwise notified by the MS4, the owner or operator shall have the SWPPP amendments or modifications reviewed and accepted by the MS4 prior to commencing construction of the post-construction stormwater management practice.
- **SWPPP Preparation In Conformance With Updated Design Manual** - Part III.B.2. has been revised to include a transition period for when an owner or operator would be required to prepare a SWPPP that includes post-construction stormwater management practices designed in conformance with updates to the New York State Stormwater Management Design Manual (Design Manual). When the Design Manual is revised during the term of the general permit, an owner or operator must begin using the revised version of the Design Manual to prepare their SWPPP six (6) months from the final revision date of the Design Manual. Owners or operators are allowed, but not required to use the updated Design Manual starting on the final revision date.

Pursuant to 6 NYCRR Part 750-1.21(d)(2), an owner or operator of a construction activity with coverage under the existing SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-08-001) as of the effective date of GP-0-10-001 shall be automatically permitted to discharge in accordance with GP-0-10-001 unless otherwise notified by the Department. These owners or operators may continue to implement the technical/design components of the SWPPP that was developed in accordance with the requirements of GP-0-08-001. However, they will be subject to the other, non-design provisions of the new general permit, GP-0-10-001.

- Additional Qualified Inspector Inspections Requirements – Part IV.C.3. has been revised to require the qualified inspector to inspect all points of discharge to natural surface waterbodies located within, or immediately adjacent to, the property boundaries of the construction site.
- Additional Qualified Inspector Reporting Requirements – Part IV.C.4. has been revised to require the qualified inspector to provide a description of the condition of all points of discharge to natural surface waterbodies located within, or immediately adjacent to, the property boundaries of the construction site which receive runoff from disturbed areas.

In addition, a requirement has been added to Part IV.C.4 that requires the qualified inspector to take digital photographs of the practices that have been identified as needing corrective actions. The *qualified inspector* is required to attach paper color copies of the digital photographs to the inspection report being maintained onsite within seven (7) calendar days of the date of the inspection. The *qualified inspector* is also required to take digital photographs, with date stamp, which show the condition of the practice(s) after the corrective action has been completed. The *qualified inspector* is required to attach paper color copies of the digital photographs to the inspection report that documents the completion of the corrective action work within seven (7) calendar days of that inspection.

- Final Sign Off by MS4 Prior to Filing Notice of Termination (NOT) – Part V.A.4. For construction activities that are subject to the requirements of a regulated, traditional land use control MS4, the owner or operator is required to have the MS4 sign the “MS4 Acceptance” statement on the NOT. The owner or operator shall have the principal executive officer, ranking elected official, or duly authorized representative from the regulated, traditional land use control MS4, sign the “MS4 Acceptance” statement. The MS4 official, by signing this statement, has determined that it is acceptable for the owner or operator to submit the NOT in accordance with the requirements of the permit. The MS4 can make this determination by performing a final site inspection themselves or by accepting the qualified inspector’s final site inspection certification(s) required by the permit.

Other Helpful Information and Important Reminders

- An owner or operator of a construction activity that is eligible for coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-10-

001) must obtain coverage under the permit prior to the commencement of construction activity. They cannot wait until there is an actual discharge from the construction site to obtain permit coverage.

This requirement comes from Section 17-0505 of the ECL which states “The making or use of an outlet or point source discharging into the waters of the state, and the operation or construction of disposal systems, without a valid SPDES permit as provided by section 17-0701 or title 8 hereof are prohibited.”. Several federal court cases have held that construction activity, which requires a NPDES permit (SPDES in New York State), is properly defined as a point source under the Clean Water Act (CWA). In other words, activities that fit the definition of “construction activity” under 40 CFR 122.26(b)(14)(x) and (15)(i), constitute point source activity. Therefore, pursuant to Section 17-0505, the owner or operator must have coverage under a SPDES permit prior to commencing construction activity.

- The owner of a construction activity needs to ensure that the appropriate “Qualified Inspector” has been hired to inspect the different components of the SWPPP. Some of the individuals included in the definition of “Qualified Inspector” may not have the necessary qualifications, certification(s) or license(s) to inspect a post-construction stormwater management practice and then certify that it has been constructed in conformance with the SWPPP (Refer to the NYS Education Department rules and regulations that apply to licensed professional engineers). For these inspections, the owner may have to hire the design engineer (or other professional engineer) to act as the “Qualified Inspector” in order to meet any NYS Education Department rules and regulations that apply to licensed professionals.
- The trained contractor identified in Part III.A.6. cannot conduct the qualified inspector site inspections unless they meet the qualified inspector qualifications included in Appendix A of this permit. In order to perform these inspections, the trained contractor would have to be a:
 - licensed Professional Engineer,
 - Certified Professional in Erosion and Sediment Control (CPESC),
 - Registered Landscape Architect, or
 - someone working under the direct supervision of, and at the same company as, the licensed Professional Engineer or Registered Landscape Architect, provided they have received four (4) hours of Department endorsed training in proper erosion and sediment control principles from a Soil and Water Conservation District, or other Department endorsed entity.