



## **FACT SHEET**

For

**DRAFT**  
**NEW YORK STATE**  
**DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**SPDES GENERAL PERMIT**  
**FOR STORMWATER DISCHARGES**  
from  
**CONSTRUCTION ACTIVITY**

Permit No. GP-0-20-001

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

July 2019

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## **INTRODUCTION**

The New York State Department of Environmental Conservation (NYSDEC) proposes to renew the SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002) as GP-0-20-001. GP-0-20-001 replaces the previous general permit, GP-0-15-002 which expires on January 28, 2020.

The SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001) is a five (5) year permit intended to cover 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). This general permit may also authorize discharges of stormwater to groundwater in cases where the NYSDEC has determined that a permit is necessary.

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 operate under an effective individual SPDES permit which addresses the stormwater discharges or obtain coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001) prior to the commencement of construction activity. The authority for the draft GP-0-20-001 is Article 17, Titles 7, 8 and Article 70 of the New York State Environmental Conservation Law.

## **SUMMARY OF CHANGES**

### **Effluent Limitation Guidelines Applicable to Discharges from Construction Activities:**

As required by 40 CFR 450.21, the draft GP-0-20-001 includes additional criteria under “Erosion and Sediment Controls” (Part I.B.1.a.) to comply with Effluent Limitation Guidelines (ELGs) applicable since 2015. The changes are consistent with recent updates the Environmental Protection Agency (EPA) made to its 2017 General Permit for Stormwater Associated with Construction Activities, modified in June 2019. One of the changes is inclusion of peak flow rates and total stormwater volume in the “Control stormwater discharge” requirement (Part I.B.1.a.ii). The second change includes the addition of a requirement on “Minimizing Dust” (Part I.B.1.a.ix).

The ELGs apply primarily to the selection, design, and implementation of the erosion and sediment controls (i.e. during construction controls) to be used on the site. These are technology based effluent limitations that represent the degree of reduction attainable by the application of best practicable technology currently available. These non-numeric effluent limits require an owner or operator to ensure that water quality standards are being met and the discharge of pollutants are minimized through the selection, design and implementation of erosion and sediment control measures. As unchanged in GP-0-20-001, the term “minimize” means to reduce and/or eliminate to the extent achievable using control measures that are technologically available and economically achievable (BAT) and practicable (BPT) in light of best industry practice. The Department determined that the control measures specified in the New York State Standards & Specifications for Erosion & Sediment Control (“Blue Book”), dated November 2016, are technologically available and economically achievable and practicable. The erosion and sediment control measures documented in the Stormwater Pollution Prevention Plan (SWPPP) must be installed and implemented to achieve the ELGs.

### **Activities Which Are Ineligible for Coverage Under This General Permit**

The following slope designation: “*Land with a Soil Slope Phase of D, provided the map unit name is inclusive of slopes greater than 25%*” was added to Part I.F.6. and 7. of the ineligibility criteria in the draft GP-0-20-001. The Department added this criterion to the CGP because of the increased potential for erosion from construction on the steep slopes. The higher level of oversight will reduce the potential for an erosion problem and therefore, more protective of water quality. This designation addresses additional “steep slope” areas (i.e. slopes greater than or equal to 25%) that are in some of the mountain areas across New York State. This is consistent with the criteria the Department used

when it first developed the “steep slope” ineligibility criteria.

### **Notice of Intent (NOI) Submittal**

The draft GP-0-201-001 allows for the use of either the electronic Notice of Intent (eNOI) or paper version until December 21, 2020. Beginning December 21, 2020, in accordance with 40 CFR Part 127, the EPA’s 2015 NPDES Electronic Reporting Rule, the owner or operator must submit the NOI electronically using the Department’s online NOI.

### **Permit Authorization**

The draft GP-0-20-001 clarifies the requirement for the owner or operator to obtain any “Department certifications,” regardless of the issuing New York State agency, prior to their authorization under the general permit being in effect. This is consistent with how the Department has implemented this condition in the past.

### **Change of Owner or Operator**

The draft GP-0-20-001 includes a requirement for the owner or operator to notify the regulated, traditional land use control Municipal Separate Storm Sewer System (MS4), in writing, of change in ownership or operation of a construction activity. This is in addition to new owner or operator. This requirement is added to ensure the MS4 is aware of the responsible party for a construction activity that is under its jurisdiction. The timeframe added to the draft GP-0-20-001 is consistent with transfer procedures for individual SPDES permits in 6 NYCRR 750-1.17.

### **General SWPPP Requirements**

The draft GP-0-20-001 clarifies that the owner or operator must amend the SWPPP and construction drawings to document the final construction conditions. These amendments/updates can be used by the owner or operator to document compliance with GP-0-20-001 and the SWPPP and for long term operation and maintenance of any post-construction control practices that were constructed as part of the construction activity.

### **Definitions – Appendix A**

The Department made these changes to assist project owners and their design professionals with SWPPP development and implementation. These changes will make the draft permit (GP-0-20-001) more protective than the current permit and therefore, more protective of water quality.

Agricultural Building – The draft general permit includes a definition for “Agricultural

Building” to address confusion over EPA’s agricultural exemption”. This definition will also help clarify SWPPP and permitting requirements for the construction of breweries, cideries and wineries on agriculture land.

Qualified Inspector – The definition was updated to include individuals that hold a current “New York State Erosion and Sediment Control Program Certificate”. This certification program was recently developed by New York State Agriculture and Markets with assistance from members of the New York State Conservation District Employees Association.

Regulated, Traditional Land Use Control MS4 – The definition was updated to include the City of New York’s Municipal Separate Storm Sewer System. The City of New York is considered a “large MS4” that is authorized to discharge under an individual SPDES Permit (NY-0287890). The owner or operator of a construction activity that discharges to NYC’s MS4 system will be required to follow the SWPPP review and acceptance process as part of the permit authorization process.

Steep Slope – The definition was updated to include *land with a Soil Slope Phase of D, provided the map unit name is inclusive of slopes greater than 25%*. This slope designation was added to Parts I.F.6. and 7. of the ineligibility criteria to address additional “steep slope” areas (i.e. slopes greater than or equal to 25%) that are in some of the mountain areas across New York State.

Trained Contractor - The definition was updated to include individuals that hold a current “New York State Erosion and Sediment Control Program Certificate”, for the same reason as “Qualified Inspector” above.

### **Required SWPPP Components by Project Type – Appendix B**

Tables 1 and 2 of Appendix B of the draft GP-0-20-001 were updated to include additional types of construction activity and to clarify required SWPPP components for several of the existing types of construction activity. The Department made these changes to assist project owners and their design professionals with SWPPP development and implementation. These changes will make the draft permit (GP-0-20-001) more protective than the current permit and therefore, more protective of water quality.

The clarifications were based on questions the Department received over the last permit term from construction activity owners, design professionals and SWPPP reviewers.

Table 1 (Erosion and Sediment Controls Only) - Updated table as follows:

- Added “Linear bike paths running through areas with vegetative cover, including bike paths surfaced with impervious cover”

- Added cross-country ski trails and walking/hiking paths
- Added Pond construction
- Added “surfaced with an impervious cover” and “not part of a residential, commercial or institutional development” to the “Sidewalk construction projects” activity
- Deleted “Land clearing and grading for the purpose of creating...” under the vegetated open space activity.

Table 2 (Post-Construction Stormwater Management Practices also) – Updated table as follows:

- Added “duplexes” under the “Multi-family” construction activity
- Added “Breweries, cideries and wineries, including establishments constructed on agricultural land”
- Added “water storage tanks” under “Municipal facilities” construction activity
- Added “Playgrounds that include the construction or reconstruction of impervious area”
- Added “including roads constructed as part of the construction activities listed in Table 1” to the “Road construction or reconstruction” activity
- Added “including parking lots constructed as part of the construction activities listed in Table 1” to the “Parking lot construction or reconstruction” activity
- Added “Sidewalk, bike path or walking path projects, surfaced with an impervious cover, and are part of a residential, commercial or institutional development, or road/highway construction/reconstruction project

### **303(d) Segments for Construction Activity – Appendix E**

- Appendix E of the draft GP-0-20-001 has been updated to include the 2016 NYS Section 303(d) list of Impaired/TMDL Waters (2016 List) for waterbody segments impaired by silt, sediment or nutrients