



FACT SHEET

For

**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

January 2020

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INTRODUCTION

The New York State Department of Environmental Conservation (NYSDEC) has issued the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001). Upon its effective date of January 29, 2020, GP-0-20-001 replaces the previous general permit, GP-0-15-002, which expires on January 28, 2020.

GP-0-20-001 is a five (5) year general permit for discharges of stormwater to surface waters of the State from construction activities as defined in 40 CFR 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 administers the approved SPDES program with permits issued in accordance with the New York State Environmental Conservation Law (ECL) Article 17, Titles 7, 8 and Article 70. 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 GP-0-20-001.

SUMMARY OF CHANGES

The following is a summary of the changes made from GP-0-15-001 to GP-0-20-001, as well as minor changes made from the draft of GP-0-20-001 to the issued GP-0-20-001 in response to comments received during the public notice period.

Effluent Limitation Guidelines Applicable to Discharges from Construction Activities:

As required by 40 CFR 450.21, GP-0-20-001 includes additional criteria under “Erosion and Sediment Controls” (Part I.B.1.a.) to comply with Effluent Limitation Guidelines (ELGs) promulgated in 2015. The changes are consistent with recent updates the United States Environmental Protection Agency (EPA) made to its 2017 General Permit for Stormwater Associated with Construction Activities, modified in June 2019. Peak flow rates and total stormwater volume are included in the “Control stormwater discharge” requirement (Part I.B.1.a.ii). The second change is the 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 non-numeric effluent limits require an owner or operator to minimize the discharge of pollutants 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 and practicable in light of best industry practice.

Eligibility Requirements - Non-stormwater Discharges (Part I.E.3.)

GP-0-20-001 clarifies the non-stormwater discharges that may be authorized the by general permit.

Activities Which Are Ineligible for Coverage Under This General Permit

The following slope designation: “*land designated on the current United States Department of Agriculture (“USDA”) Soil Survey as Soil Slope Phase of “D”, (provided the map unit name is inclusive of slopes greater than 25%)*” is included in Part I.F.6. and 7. of the ineligibility criteria in GP-0-20-001. 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 criterion is necessary 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, is more protective of water quality.

Notice of Intent (NOI) Submittal

GP-0-20-001 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 (EPA's 2015 NPDES Electronic Reporting Rule), the owner or operator must submit the NOI electronically using the Department's online NOI.

Permit Authorization

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

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 requirement is added to ensure the MS4 is aware of the responsible party for a construction activity that is under its jurisdiction. The timeframe in GP-0-20-001 is consistent with transfer procedures for individual SPDES permits in 6 NYCRR 750-1.17.

General SWPPP Requirements

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. This is consistent with how the Department has implemented this condition in the past.

Definitions – Appendix A

The Department made the following changes to assist project owners and their design professionals with SWPPP development and implementation. These changes make GP-0-20-001 more protective than the current permit.

Agricultural Building – GP-0-20-001 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 includes individuals that hold a current certificate under the “New York State Erosion and Sediment Control Certificate Program”. 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 includes 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 in order to gain coverage under GP-0-20-001.

Steep Slope – The definition includes *land designated on the current United States Department of Agriculture (“USDA”) Soil Survey as Soil Slope Phase “D”(provided the map unit name is inclusive of slopes greater than 25%)*. This slope designation in Parts I.F.6. and 7. of the ineligibility criteria 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.

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

GP-0-20-001 includes definitions of the following terms for clarification and consistency with EPA’s 2017 Construction General Permit, modified in June 2019:

- Agricultural Property
- Construction Site
- Dewatering
- Embankment
- Endangered or Threatened Species
- Natural Buffer
- Nonpoint Source
- Overbank
- Point Source
- Streambank
- Stormwater Pollution Prevention Plan

Required SWPPP Components by Project Type – Appendix B

Tables 1 and 2 of Appendix B include additional types of construction activity and clarify required SWPPP components for several types of construction activity. The Department made these changes to add clarity on expectations for compliance/implementation with GP-0-20-001.

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

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 “bike path or walking path”, “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.
- Added “Sidewalk, bike path or walking path projects, surfaced with an impervious cover, that include incidental shoulder or curb work along an existing highway to support construction of the sidewalk, bike path or walking path”
- Added “Temporary access roads, median crossovers, detour roads, lanes or other temporary impervious areas that will be restored to pre-construction conditions once the construction activity is complete”

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, that are part of a residential, commercial or institutional development,
- Added “Sidewalk, bike path or walking path projects, surfaced with an impervious cover, that are part of a highway construction or reconstruction project

303(d) Segments for Construction Activity – Appendix E

- Appendix E of GP-0-20-001 includes the 2016 NYS Section 303(d) list of Impaired/TMDL Waters (2016 List) for waterbody segments impaired by silt, sediment or nutrients. The list of impaired waterbodies identifies the impairment for each of the waterbodies and includes all appropriate waterbodies.