



Department of
Environmental
Conservation

FACT SHEET

For

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

Permit No. GP-0-15-002

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

January 2015

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INTRODUCTION

The New York State Department of Environmental Conservation (NYSDEC) has renewed the SPDES General Permit for Stormwater Discharges from Construction Activity as GP-0-15-002. The new general permit is effective on January 29, 2015. GP-0-15-002 replaces the previous general permit, GP-0-10-001 which expires on January 28, 2015.

The SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002) 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 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-0-15-002) prior to the commencement of construction activity.

GENERAL CHANGES

Addition of EPA's Construction and Development Effluent Guidelines (ELGs):

Part I.B.1 of the general permit contains new source performance standards (ELGs) as required by 40 CFR 450.21. 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 newly defined in the general permit, 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 control measures specified in the New York State Standards & Specifications for Erosion & Sediment Control ("Blue Book") have been determined to be 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 effluent limits contained in Part I.B.

Addition of Sizing Criteria from the New York State Stormwater Management Design Manual ("Design Manual"): Part I.C. of the general permit specifies the criteria for post construction stormwater management practices.

Performance Criteria - Part I.C.1 clarifies when deviations from the Design Manual are allowed. The general permit specifies that where post construction stormwater management practices are not designed in conformance with the *performance criteria* contained in the Design Manual, the owner or operator must demonstrate that the deviation or alternative design is equivalent to the Design Manual. The general permit defines *performance criteria* to be that criteria listed under "required elements" in sections in Chapters 5, 6 and 10 of the Design Manual. The general permit defines *equivalent (equivalence)* to mean that the practice or measure meets all performance, longevity, maintenance and safety objectives of the technical standard and will provide an equal or greater degree of water quality protection.

Sizing Criteria - Part I.C.2 requires that post-construction stormwater management practices must meet the applicable sizing criteria contained in Part I.C.2(a),(b),(c) or (d) of the general permit. The sizing criteria are defined as the criteria included in Chapters 4, 9 and 10 of the Design Manual (i.e. WQv, RRv, CPv, Qp and Qf). Associated changes to the Design Manual were also made to ensure consistency between the general permit and Design Manual and to provide clarifications to the requirements. Deviations from the sizing criteria are

not allowed. If an owner cannot meet the required sizing criteria they would need to apply for coverage under an individual SPDES permit. The Department has been applying this criterion in the review of the Notice of Intent (NOI) since the Phase II program went into effect in 2003.

Discharges to Impaired Waters: For construction sites that directly discharge to one of the 303(d) segments listed in Appendix E¹ or is located in one of the watersheds listed in Appendix C, the general permit now requires more frequent inspections by a qualified inspector (see Part IV.C.2.e.) and shortened timeframes for stabilization of exposed soils (see Part I.B.1.b.) to ensure that discharges to impaired waters are in compliance with the terms and conditions of the general permit. The Department believes that this additional oversight will provide the protection necessary for impaired waters that will allow construction activities to be covered under the General Permit rather than excluding them from eligibility. This is consistent with how EPA addressed this issue in their 2012 Construction General Permit (“CGP”). The Department expects that compliance with the conditions and effluent limitations in the general permit will result in stormwater discharges being controlled as necessary to meet applicable water quality standards for ALL waters.

Authorization Period using eNOI: The general permit modifies Part II.B.3(a) and (b) to reflect that electronic filing of the NOI will be authorized within 5 business days from the date DEC receives a complete NOI for projects that conform to the New York State Standards and Specifications for Erosion and Sediment Control, dated August 2005; and the New York State Stormwater Management Design Manual, dated January 2015 (“technical standards”) for projects that require post-construction stormwater management practices pursuant to Part III.C of the general permit. The timeframe for authorization of coverage for paper NOIs has been increased from 5 to 10 business days for projects that conform to the technical standards. No changes proposed for projects that deviate from the technical standards (60 business days)

State Historic Preservation Act (SHPA) Review Process/Consultation with Office of Parks Recreation & Historic Preservation (OPRHP): A Letter of Resolution (LOR) has been finalized with OPRHP on the general permit that satisfies DEC’s obligation under the NYS Historic Preservation Act, Section 14.09, 9 NYCRR 428.4 for both the renewal and implementation of the general permit. The LOR formalizes and fine tunes a process for owners/operators to identify and address potential impacts on archeological and historic resources well in advance of submission of the NOI. Construction activities that have the potential to affect historic and/or archeological resources are not eligible for coverage under the general permit unless there is documentation that such impacts have been resolved prior to submission of the NOI. The general permit requires that documentation demonstrating that potential impacts will be avoided or mitigated are in place at the time the NOI is submitted. Part I.F.8 of

¹ Appendix E of the general permit has been updated to list the 2014 303(d) waterbodies impaired by silt, sediment or nutrients.

the general permit specifies the documentation necessary to demonstrate eligibility. The NOI will require the owner/operator to specify the documentation used to demonstrate that potential impacts will be avoided or mitigated and certify that the documentation demonstrating eligibility is available upon request and will be maintained on site. Part II.C.2 specifies that the required documentation must be maintained on-site and available for inspection along with the SWPPP documents. Part VII.F of the general permit requires that the owner or operator provide copies of the documentation demonstrating eligibility to DEC within a reasonable specified time period of a written request. The LOR identifies certain categories of projects as exempt from SHPA review.(see Attachment 2 of the LOR). All other projects will be required to follow DEC's screening and consultation process that was developed with OPRHP. The final LOR (including attachments) and supporting guidance documents (i.e. Flow Charts) will be available on the following Department webpage:
<http://www.dec.ny.gov/chemical/43133.html>.

Watersheds Where Enhanced Phosphorus Removal Standards are Required: The Total Maximum Daily Load (TMDL) for Phosphorus in Kinderhook Lake was approved by EPA in September 2011. The approved report specifies that all new development throughout the watershed will be covered by enhanced phosphorus design requirements when GP-0-10-001 is renewed in 2015 as GP-0-15-002. In order to ensure compliance with the requirements necessary to implement this TMDL, the general permit adds the Kinderhook Lake Watershed to the list of watersheds specified in Appendix C where application of the Enhanced Phosphorus Removal Standards (Chapter 10 of the New York State Stormwater Management Design Manual) is required.

Trained Contractor Inspections: Part IV.B of the general permit has been updated to specify that the "Trained Contractor" shall perform the required maintenance inspections of the erosion and sediment controls being used on the site. This inspection requirement applies to all construction projects that are subject to the general permit.