

August, 2017

## **NYS Stormwater Permit for Construction Activities (GP-0-15-002) Requirements for Owner/Operators\*\***

Before commencing construction activity, the owner or operator of a construction project that will involve soil disturbance of one or more acres must obtain coverage under the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002). This permit has been in effect since 2015. It was modified in November, 2016 to require the use of the recently updated NYS Standards and Specifications for Erosion and Sediment Control (dated November 2016). This requirement went into effect on February 1, 2017. The purpose of the permit is to control construction site discharges necessary to meet applicable water quality standards. Permit compliance also provides protection for other resources including:

- Habitat/Natural Areas
- Environmentally Sensitive Areas
- Trees
- Permeable Soils
- Future Stormwater Management Areas
- Infrastructure /Structures
- History

THE NOTICE OF INTENT FOR CONSTRUCTION ACTIVITY CAN BE COMPLETED ONLINE THROUGH THE NYSDEC eBUSINESS FORMS PORTAL. USERS MUST BE REGISTERED WITH NY.GOV IN ORDER TO USE THIS SYSTEM. USER GUIDES AND HELP ON REGISTERING FOR THE PORTAL ARE AVAILABLE ON THE PORTAL INFORMATION WEBPAGE.

### **NOTICE OF INTENT**

In order to gain coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity, an owner or operator must:

- Develop a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the requirements in the permit
- Submit a completed Notice of Intent (NOI) to the NYS DEC
- Projects subject to MS4 regulation must submit a signed MS4

SWPPP Acceptance Form along with their NOI. With some exceptions, an owner or operator of a construction project within the boundaries of an MS4 is required to have their SWPPP reviewed and accepted by the MS4 prior to submitting their NOI to the DEC. Consult the Stormwater Interactive Map to determine whether your project is within an MS4. The map displays the automatically and additionally designated MS4 areas (regulated area). Some MS4s have extended their jurisdiction for SWPPP review to the municipal boundary; therefore, even if your project is located outside an MS4 regulated area, you should contact the municipal office to find out whether you need to submit your SWPPP for approval.

All construction sites require:

- Stabilized Construction Access
- Site Pollution Prevention
- Silt Fence
- Soil Restoration
- Seeding and Mulching

Most construction sites likely need:

- Existing Vegetation Protection
- Concrete Truck Washout
- Check Dams
- Rock Outlet Protection
- Sediment Trap/Basin
- Winter Stabilization

## Construction Inspections

# Construction Permit Paperwork

The following items must be available at the construction site at all times:

- Stormwater Pollution Prevention Plan (SWPPP) including construction drawings and plans
- Notice of Intent (NOI) signed by owner and SWPPP preparer
- NOI Acknowledgment Letter from DEC
- General Permit (GP-0-15-002)
- MS4 SWPPP Acceptance Form
- Site Log Book including certifications, site inspection reports, SWPPP updates
- Letter of Permission to Disturb >5 Acres (for applicable projects)

There are three types of inspections that can take place on active construction sites:

- Owner/Operator's Site Inspections
- DEC Compliance Inspection
- Municipal Site Inspection (MS4)

The owner/operator's inspections must be conducted at least once every 7 days on sites where less than five (5) acres of soil are exposed at one time. Additionally, contractors should be inspecting erosion and sediment control measures on a daily basis. Daily maintenance of erosion and sediment control measures is important and prompt attention to maintenance and repair needs is critical. Storm events often compromise erosion and sediment control measures and maintenance may be required on a more urgent basis than waiting for the weekly inspection.

The permit specifies that a "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. A trained contractor is an employee from the contracting/construction company that has received four hours of DEC endorsed training in proper erosion and sediment control principles from a Soil and Water Conservation District, or other DEC endorsed entity. After receiving the initial training, the trained contractor must receive four hours of training every three years. A trained contractor can also be a licensed Professional Engineer, Certified Professional in Erosion and Sediment Control (CPESC), Registered Landscape Architect or someone working under the direct supervision of a licensed Professional Engineer or Registered Landscape Architect, provided they have received four hours of DEC endorsed training in erosion and sediment control. The trained contractor is responsible for the day-to-day implementation of the SWPPP.

The inspection report must be reviewed with the owner, and kept on site in a Construction Site Log Book. The owner should promptly give all SWPPP implementation contractors a copy of the inspection report and go over all necessary repairs and required changes. The Site Log Book must include the construction inspection reports for the duration of the project, signed contractor certification statements, and any updates to the SWPPP that may occur during construction. For projects that require soil disturbance of greater than 5 acres at any one time, the owner/operator must receive prior written authorization from the DEC, or in the case when the project is under the jurisdiction of a regulated, traditional land use MS4, the MS4. At a minimum, in order to be authorized to disturb greater than 5 acres of soil at any one time, the owner/operator must have a "Qualified Inspector" conduct at least two (2) site inspections every seven (7) days for as long as greater than five (5) acres of soil remain disturbed. The two (2) inspections must be separated by a minimum of two (2) full calendar days. A qualified inspector is a person that is knowledgeable in the principles and practices of erosion and sediment control, such as a licensed Professional Engineer, a Certified Professional in Erosion and Sediment Control (CPESC), a Registered Landscape Architect, or other DEC endorsed individual. Qualified Inspectors may also be someone working under the direct supervision of a licensed Professional Engineer or Registered Landscape Architect provided that person has training in the principles and practices of erosion and sediment control (has received four hours of DEC endorsed training in proper erosion and sediment control principles from a Soil and Water Conservation District or other DEC endorsed entity). For construction sites that discharge directly to a 303(d) listed segment, or is located in the New York City Watershed,

the Onondaga Lake Watershed, the Greenwood Lake Watershed, the Oscawana Lake Watershed or the Kinderhook Watershed, the owner/operator must have a qualified inspector conduct at least two (2) inspections every seven (7) calendar days. The two (2) inspections must be separated by a minimum of two (2) calendar days.

Inspections of post-construction stormwater management practices that include structural components, such as a dam for an impoundment, must be performed by a licensed Professional Engineer.

### **Permit Violations**

The DEC expects that compliance with the construction stormwater permit will control discharges from construction sites that are necessary to meet applicable water quality standards. A violation will occur if there is a discharge from the site that causes or contributes to any of the following:

1. An increase in turbidity that causes a substantial visible contrast to natural conditions
2. An increase in suspended, colloidal or settleable solids that causes deposition or impairs the waters for their best usages
3. Residue from oil and floating substances, visible oil film, or globules of grease

If there is evidence indicating that the stormwater discharges authorized by the permit are causing, have the reasonable potential to cause, or are contributing to a violation of water quality standards, the owner/operator must take appropriate corrective action. Water quality violations occur, fines up to \$37,500 per day per violation and imprisonment for up to fifteen (15) years may be assessed depending on the nature and degree of the offense.

Owner/operator inspections are the first line of defense against discharge violations. The role of the self-inspector is to verify that the site is complying with stormwater requirements. In particular, the self-inspector verifies that the SWPPP is being properly implemented. The inspection process provides an early opportunity to detect and address potential problems which left unchecked, may cause or contribute to a water quality violation. The self-inspector also documents SWPPP implementation so regulatory agencies can review implementation activities, but it is not the role of the self-inspector to report directly to regulatory authorities. On-site spills are the exception. All spills must be reported to DEC unless the spill is less than five (5) gallons, is contained and does not reach state waters, and is cleaned up within two (2) hours.

On-site inspections should include the following key elements:

- Access points
- Outfalls
- Practices/Site Management
- Housekeeping
- Paperwork
- Erosion
- Sedimentation
- Discharge Violations
- Protected Resources

**The New Blue:** DEC finalized updates to the New York State Standards and Specifications for Erosion and Sediment Control (Blue Book) in 2016. The updated Blue Book provides standards and specifications for the selection, design, and implementation of erosion and sediment control practices during development of Erosion and Sediment Control Plans as required by the SPDES General Permit for Stormwater Discharges from Construction Activity. The document is available for download from the DEC's Construction Stormwater Toolbox.

The new Blue Book is organized in a manner to emphasize good planning and environmental site design at the onset of a project, followed by the design process (noting the differences with different types of construction operations). Standards are presented in the order of proper site management in the beginning followed by erosion control, runoff control, soil stabilization, and sediment control practices. A summary of changes contained in the 2016 Blue Book can be found in the CNY Stormwater Coalition's 2016 Contractor Newsletter

### **What Stormwater Training Are You Looking For?**

#### **NYSDEC Endorsed 4-Hour Erosion and Sediment Control (E&SC) Training**

Under the SPDES General Permit for Stormwater Discharges from Construction Activity, certain contractors (Trained Contractor) and certain Qualified Inspectors are required to complete 4 hours of DEC endorsed training in the principles and practices of erosion and sediment control (E&SC) every 3 years. To satisfy this training requirement, the DEC has partnered with County Soil and Water Conservation Districts (SWCDs) across the State to deliver a 4-hour E&SC training course. In addition, the DEC accepts the following training options as meeting the 4 hour endorsed training requirement:

- The NYS Builders Association Online version of the DEC endorsed, 4-hour E&SC course (For details visit NYSBA Online Training).
- The 1-day "CPESC Exam Review Course" for those taking the CPESC exam. Eligibility requirements may apply. Information is available on the EnviroCert webpage.

In the Syracuse Urbanized Area, the 4-hour E&S course is offered through the Onondaga County SWCD in cooperation with the Syracuse Builders Exchange, and the Madison County SWCD. To find out more about upcoming courses in Syracuse Urbanized Area, contact:

Syracuse Builders Exchange Madison County SWCD

Melissa Gould 315- 824-9849 Ext. 5 315-437-9936, ext. 25 [www.madcoswcd.com](http://www.madcoswcd.com)

[mgould@syrabex.com](mailto:mgould@syrabex.com) [www.syrabex.com](http://www.syrabex.com)

*Trained Contractor* - Prior to the commencement of construction, an owner or operator shall have each contractor and subcontractor, that has been identified as being responsible for implementation of the Stormwater Pollution Prevention Plan (SWPPP), identify at least one employee from their company (Trained Contractor) that has received 4 hours of endorsed E&SC training. The Trained Contractor must be on site on a daily basis when soil disturbance activities are being performed and will be responsible for implementation of the practices included in the SWPPP.

*Qualified Inspector* - An owner or operator of a regulated construction project, with some exceptions, shall have a Qualified Inspector conduct specific site inspections. Certain Qualified Inspectors who work on these sites (i.e., individuals working under direct supervision of, and at the same company as, a licensed Professional Engineer or Registered Landscape Architect of NYS) are required to complete 4 hours of E&SC training under the General Permit.

**\*\*No part of this newsletter may be construed to provide complete guidance on the NYS SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002). This newsletter is for informational purposes only. Please refer to the full general permit available on the NYS DEC website to determine the exact regulatory requirements for your project.**

This newsletter is funded by the CNY Stormwater Coalition whose membership consist of 29 regulated MS4s in the Syracuse Urbanized Area which spans parts of Onondaga, Oswego and Madison Counties. For more information on the CNY Stormwater Coalition, visit their website at [www.cnyrpdb.org/stormwater](http://www.cnyrpdb.org/stormwater)