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New SPDES General Permit for Stormwater Discharges from Construction Activity

On January 29, 2010, the NYSDEC issued a new State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity. The permit has been re-titled GP-0-10-001 and will be effective from January 29, 2010 to January 28, 2015. The permits generally pertain to any construction activities that disturb greater than one-acre, although lower thresholds apply to sensitive watersheds. The permit requires the development of a Stormwater Pollution Prevention Plan (SWPPP) and submittal of a Notice of Intent (permit application) prior to the start of construction. SWPPPs that were approved under the previous permit (GP-0-08-001) are still applicable with regard to their design aspects. However, those projects must comply with the new non-design requirements of the permit.

The following outlines the major changes to the SPDES Construction Permit:

- It should be noted that the New York State Stormwater Management Design Manual (NYSSMDM) is undergoing revisions at this time. The new manual is proposed to include green infrastructure practices as standard practices, and will encourage developers and designers to use these practices by offering water quality credits. Once these updates are finalized, they will inherently be part of the General Permit through reference. However, it is not required that these revisions be utilized to design SWPPPs until six (6) months after the final draft Design Manual has been released.
- The second major change to the General Permit is regarding applicability of Enhanced Phosphorus Removal Standards. Construction Projects located in the **Oscawana Lake Watershed** that require post-development stormwater management practices are now required to be developed in accordance with the Enhanced Phosphorus Removal Standards.
- The new permit includes language indicating that the NOI, SWPPP, and Inspection Reports are public documents and that, if requested, they must be provided to the requestor within five (5) business days of receipt of the request. Specific language regarding *when* the owner or operator is required to update a SWPPP has also been added back into the new permit. Owners or operators of a construction activity, subject to the requirements of a regulated, traditional land use control MS4, must notify the MS4 (in writing) if any modifications to the post-construction stormwater plan are proposed. These must be reviewed and approved, unless stated otherwise by the MS4, prior to construction of the modifications.



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- Stormwater inspections must now include all points of discharge to surface water bodies that are within or immediately adjacent to project property boundaries. A description of the condition of all of these points, which also receive runoff from the construction site, must be included in the inspection report.
- Stormwater inspection reports must now include time stamped, paper color copies of the photos of practices that need corrective action. Once an inspection indicates that these practices have been corrected, photos of the remediated practices need to be attached the new inspection report. All photos must be attached within seven (7) days of the date of the inspection.
- For construction activities subject to the requirements of a regulated, traditional land use control MS4, the owner or operator needs to have the MS4 sign the “MS4 Acceptance” statement on the NOT. This statement notifies the NYSDEC that the MS4 has determined that it approves to allow the project’s permit to be formally terminated. The MS4 can determine this by performing their own inspection or accepting the site stormwater inspector’s final inspection certification.

The NYSDEC is currently revising the municipal (MS4) stormwater permit and Stormwater Management Design Manual. Additional information regarding these permitting and design modifications will be provided in future editions of the B&L SPEC as developments occur. B&L has been involved throughout the permit revision process. We are very familiar with the new permit requirements and implications they have on current and planned construction projects. For more information please contact David Hanny (315) 457-5200, dhanny@bartonandloguidice.com or Nadine Medina (518) 218-1801, nmedina@bartonandloguidice.com