

Summary of GP-0-20-001 as it Relates to Construction Activity on Agricultural Property

Prepared by the NYSDEC Division of Water, Bureau of Water Permits – 5/22/2023

The following is a summary and not an exhaustive list of requirements of the SPDES General Permit for Stormwater Discharges from Construction Activity, Permit No. GP-0-20-001, hereafter referred to as “the Permit,” as it relates to *construction activities on agricultural property*. If there is inconsistency between this summary document and the Permit, the Permit applies.

- Coverage under the Permit
 - Required for the following per Part I.A of the Permit:
 - 1. *Construction activities* involving soil disturbances of one (1) or more acres; including disturbances of less than one acre that are part of a *larger common plan of development or sale* that will ultimately disturb one or more acres of land; excluding *routine maintenance activity* that is performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility;
 - 2. *Construction activities* involving soil disturbances of less than one (1) acre where the Department has determined that a *SPDES* permit is required for stormwater *discharges* based on the potential for contribution to a violation of a *water quality standard* or for significant contribution of *pollutants to surface waters of the State*.
 - 3. *Construction activities* located in the watershed(s) identified in Appendix D that involve soil disturbances between five thousand (5,000) square feet and one (1) acre of land.
 - Not required for:
 - *Construction activities* that meet 40 CFR Section 122.3(e)
 - This includes stormwater discharges from the cultivation of crops.
- Noteworthy requirements of the Permit that apply to *construction activities* that have coverage:
 - A *Stormwater Pollution Prevention Plan (SWPPP)* must be prepared per Part III.A. of the Permit.
 - Refer to Part III.C. and Appendix B (Tables 1 and 2) to determine whether the *SWPPP* requires erosion and sediment controls only or erosion and sediment controls as well as post-construction management practices.
 - Site inspections are required during construction per Part IV. of the Permit.
 - Per Part IV.C.1.c, “construction on agricultural property that involves a soil disturbance of one (1) or more acres of land but less than five (5) acres” does not require *Qualified Inspector* Inspections.

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- Definitions from Appendix A of the Permit for terms used in this document:
 - **Agricultural Building** – a structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products; excluding any structure designed, constructed or used, in whole or in part, for human habitation, as a place of employment where agricultural products are processed, treated or packaged, or as a place used by the public.
 - **Agricultural Property** – means the land for construction of a barn, *agricultural building*, silo, stockyard, pen or other structural practices identified in Table II in the “Agricultural Management Practices Catalog for Nonpoint Source Pollution in New York State” prepared by the Department in cooperation with agencies of New York Nonpoint Source Coordinating Committee (dated June 2007).
 - **Construction Activity(ies)** – means any clearing, grading, excavation, filling, demolition or stockpiling activities that result in soil disturbance. Clearing activities can include, but are not limited to, logging equipment operation, the cutting and skidding of trees, stump removal and/or brush root removal. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility.
 - **Commence (Commencement of) Construction Activities** – means the initial disturbance of soils associated with clearing, grading or excavation activities; or other construction related activities that disturb or expose soils such as demolition, stockpiling of fill material, and the initial installation of erosion and sediment control practices required in the SWPPP. See definition for “*Construction Activity(ies)*” also.
 - **Construction Site** – means the land area where *construction activity(ies)* will occur. See definition for “*Commence (Commencement of) Construction Activities*” and “*Larger Common Plan of Development or Sale*” also.
 - **Discharge(s)** - means any addition of any pollutant to waters of the State through an outlet or *point source*.
 - **Embankment** – means an earthen or rock slope that supports a road/highway.
 - **Larger Common Plan of Development or Sale** – means a contiguous area where multiple separate and distinct *construction activities* are occurring, or will occur, under one plan. The term “plan” in “larger common plan of development or sale” is broadly defined as any announcement or piece of documentation (including a sign, public notice or hearing, marketing plan, advertisement, drawing, permit application, State Environmental Quality Review Act (SEQRA) environmental assessment form or other documents, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating that *construction activities* may occur on a specific plot. For discrete construction projects that are located within a larger common plan of development or sale that are at least 1/4 mile apart, each project can be treated as a separate plan of development or sale provided any interconnecting road, pipeline or utility project that is part of the same “common plan” is not concurrently being disturbed.
 - **Owner or Operator** – means the person, persons or legal entity which owns or leases the property on which the *construction activity* is occurring; an entity that has operational control over the construction plans and specifications, including the ability

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to make modifications to the plans and specifications; and/or an entity that has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions.

- **Point Source** – means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, or landfill leachate collection system from which *pollutants* are or may be discharged.
- **Pollutant** – means dredged spoil, filter backwash, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards or guidance values adopted as provided in 6 NYCRR Parts 700 et seq.
- **Qualified Inspector** – means a person that is knowledgeable in the principles and practices of erosion and sediment control, such as a licensed Professional Engineer, Certified Professional in Erosion and Sediment Control (CPESC), Registered Landscape Architect, New York State Erosion and Sediment Control Certificate Program holder or other Department endorsed individual(s). It can also mean someone working under the direct supervision of, and at the same company as, the licensed Professional Engineer or Registered Landscape Architect, provided that person has training in the principles and practices of erosion and sediment control. Training in the principles and practices of erosion and sediment control means that the individual working under the direct supervision of the licensed Professional Engineer or Registered Landscape Architect has received four (4) hours of Department endorsed training in proper erosion and sediment control principles from a Soil and Water Conservation District, or other Department endorsed entity. After receiving the initial training, the individual working under the direct supervision of the licensed Professional Engineer or Registered Landscape Architect shall receive four (4) hours of training every three (3) years. It can also mean a person that meets the *Qualified Professional* qualifications in addition to the *Qualified Inspector* qualifications. Note: Inspections of any post-construction stormwater management practices that include structural components, such as a dam for an impoundment, shall be performed by a licensed Professional Engineer.
- **Routine Maintenance Activity** – means *construction activity* that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility, including, but not limited to:
 - Re-grading of gravel roads or parking lots,
 - Cleaning and shaping of existing roadside ditches and culverts that maintains the approximate original line and grade, and hydraulic capacity of the ditch,
 - Cleaning and shaping of existing roadside ditches that does not maintain the approximate original grade, hydraulic capacity or purpose of the ditch if the changes to the line and grade, hydraulic capacity or purpose of the ditch are installed to improve water quality and quantity controls (e.g. installing grass lined ditch),

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- Placement of aggregate shoulder backing that stabilizes the transition between the road shoulder and the ditch or *embankment*,
 - Full depth milling and filling of existing asphalt pavements, replacement of concrete pavement slabs, and similar work that does not expose soil or disturb the bottom six (6) inches of subbase material,
 - Long-term use of equipment storage areas at or near highway maintenance facilities,
 - Removal of sediment from the edge of the highway to restore a previously existing sheet-flow drainage connection from the highway surface to the highway ditch or *embankment*,
 - Existing use of Canal Corp owned upland disposal sites for the canal, and
 - Replacement of curbs, gutters, sidewalks and guide rail posts
- **Qualified Professional** – means a person that is knowledgeable in the principles and practices of stormwater management and treatment, such as a licensed Professional Engineer, Registered Landscape Architect or other Department endorsed individual(s). Individuals preparing SWPPPs that require the post-construction stormwater management practice component must have an understanding of the principles of hydrology, water quality management practice design, water quantity control design, and, in many cases, the principles of hydraulics. All components of the SWPPP that involve the practice of engineering, as defined by the NYS Education Law (see Article 145), shall be prepared by, or under the direct supervision of, a professional engineer licensed to practice in the State of New York.
 - **State Pollutant Discharge Elimination System (SPDES)** - means the system established pursuant to Article 17 of the ECL and 6 NYCRR Part 750 for issuance of permits authorizing discharges to the waters of the state.
 - **Stormwater Pollution Prevention Plan (SWPPP)** – means a project specific report, including construction drawings, that among other things: describes the construction activity(ies), identifies the potential sources of pollution at the *construction site*; describes and shows the stormwater controls that will be used to control the pollutants (i.e. erosion and sediment controls; for many projects, includes post-construction stormwater management controls); and identifies procedures the *owner or operator* will implement to comply with the terms and conditions of the permit. See Part III of the permit for a complete description of the information that must be included in the SWPPP.
 - **Surface Waters of the State** – shall be construed to include lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface waters), which are wholly or partially within or bordering the state or within its jurisdiction. Waters of the state are further defined in 6 NYCRR Parts 800 to 941.

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- **Water Quality Standard** – means such measures of purity or quality for any waters in relation to their reasonable and necessary use as promulgated in 6 NYCRR Part 700 et seq.

If there are other questions about the Permit, please contact the NYSDEC Regional Office Stormwater staff.