

Frequently Asked Questions about the Construction Stormwater Permit

In 2010, a new General Permit was issued by New York State Department of Environmental Conservation for stormwater discharges from land disturbances of one acre or more. The permit introduced several changes to the program, some of them subtle, but they make a difference in the way stormwater compliance on construction sites is carried out. This newsletter aims to address and clarify some of the most frequently raised issues about the stormwater permit.

What is the 4-hour contractor certification training and where do I obtain it? How often must I receive this training? What happens if I don't have my card onsite?

The 4-hour contractor certification training is designed to ensure that contractors working on construction sites are able to implement erosion and sediment control measures to prevent introduction of sediment and other pollutants to bodies of water. All contractors responsible for any installation or maintenance of erosion and sediment control practices must have received this training within the past three years in order to be allowed to perform work on a construction site. The training can be obtained from Onondaga County Soil and Water Conservation District, which offers the program frequently, or from any of the sources identified on the NYSDEC website's training calendar at <http://www.dec.ny.gov/chemical/8699.html>. At all times, at least one individual from every contractor company onsite must have in their possession a current certification card showing that they have completed the training in the last three years; a municipal inspector or state official can require an individual or firm to stop work and leave the site if they are not properly certified.

What's the difference between the 4-hour training and the training needed to be a qualified site inspector?

A qualified site inspector is the individual who performs inspections of erosion and sediment control practices on behalf of the site owner or developer. The qualified inspector can be a licensed Professional Engineer, Registered Landscape Architect, or Certified Professional in Erosion and Sediment Control. The qualified inspector may also be an individual working under the direct supervision of a licensed Professional Engineer or Registered Landscape Architect and who has *also* completed the 4-hour contractor certification training.

Which contractors must sign the certification statement? How is this determined?

The SWPPP is required to identify the contractor or subcontractor(s) responsible for implementing each element of the erosion and sediment control and stormwater management practices on the site, including installing, constructing, repairing, replacing, inspecting and maintaining erosion and sediment control practices. Each of these contractors is required to sign the certification statement. This provision includes not only the general construction site operator or land development contractor, but also subcontractors performing excavation, utility installation, roadwork, landscaping, and other activities that could potentially result in runoff of sediment or other pollutants from the site.



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What types of documentation are now required for site inspections? When do photos need to be taken and what do they need to show? What are the points of discharge that need to be inspected?

In every owner/operator inspection by the qualified inspector, digital photos are now required as part of the inspection report. Date-stamped digital photos must be taken of all practices needing corrective action, both at the time the need for corrective action is identified and after it has been completed. If deficient practices have not been corrected as recommended by the previous report, this also must be documented with photographs included. Date-stamped digital photos must also be taken of all points where stormwater discharges from the site. This includes piped outfalls (whether to open channels or to closed catchbasins), streams or watercourses leaving the site after collecting sheet flow of runoff, and any concentrated open pathways of stormwater that carry runoff outside the site boundary. Similarly, the inspection report must include a description of the condition of all natural surface waters within, or immediately adjacent to, the property boundaries of the site that receive runoff from disturbed areas. If any corrective action is required, it must begin within one business day of receipt of notification by the contractor.



Two possible pathways by which stormwater can discharge from a site: into an existing storm sewer system or directly into a body of water. Both of these points must be inspected.

Under what circumstances must a SWPPP be amended? What types of changes can be made in the field and which require municipal review? If conditions encountered during construction make it impossible to follow part of a SWPPP, what are my options? How do I get approval for an alternative approach?

The SWPPP must be amended whenever the current provisions prove to be ineffective in minimizing pollutants in stormwater discharges from the site; whenever there is a change in design, construction, or operation at the construction site that has or could have an effect on the discharge of pollutants; and to address issues or deficiencies identified during an inspection by the qualified inspector, local authority, or NYS DEC. Since updating the SWPPP for onsite circumstances is part of the General Permit requirements, many changes do not require municipal or State approval as long as accepted standard practices are used. However, major alterations such as changes to post-construction stormwater management or runoff reduction practices require re-submittal of a revised SWPPP to the Planning Board (or equivalent decision-making body) of the municipality in which the work is taking place (if a regulated MS4), or submittal of a revised NOI to NYSDEC Central Office in Albany (outside MS4s).

What is a Notice of Termination (NOT)? What criteria must be satisfied on the site before it can be filed? What if I shut the site down but have only completed part of the project – can I file an NOT and if so, what must be accomplished onsite before doing so? Who can sign off on an NOT?

A Notice of Termination is a document that indicates the closure and completion of a construction activity. It certifies that all activities with the potential to discharge sediment or other pollutants from the site as a result of active construction have concluded. A NOT may be filed if all of the following

criteria are met:

- All construction activity identified in the SWPPP has been completed;
- All areas of disturbance have achieved *final stabilization*;
- All temporary, structural erosion and sediment control measures have been removed; and
- All post-construction stormwater management practices have been constructed in conformance with the SWPPP and are operational.

A NOT may also be filed under conditions of partial completion of construction activities (e.g. conclusion of a phase or stage of a project) if the following conditions are met:

- All soil disturbance activities have ceased;
- All areas disturbed as of the project shutdown date have achieved final stabilization;
- All temporary, structural erosion and sediment control measures have been removed;
- All post-construction stormwater management practices required for the completed portion of the project have been constructed in conformance with the SWPPP and are operational.

In the above circumstance, the owner or operator must notify the NYSDEC Regional Office or, in areas under the jurisdiction of a regulated MS4, the municipality in which the work is taking place in writing prior to the shutdown. If soil disturbance activities are not resumed within 2 years from the date of shutdown, the owner or operator can file an NOT if they have the qualified inspector perform a final inspection and certify that all disturbed areas have achieved final stabilization, and all temporary erosion and sediment control measures have been removed. All permanent stormwater management



The properly stabilized site at the top was seeded at the end of fall in the previous construction season. Grass took root very early in spring, providing immediate stabilization and reducing erosion and sediment control work necessary at the start of the season, when runoff is often highest. In contrast, the site on the bottom is not sufficiently stabilized.

practices must also have been constructed in conformance with the SWPPP. The owner or operator then submits the completed NOT form to NYSDEC.

Signatories to an NOT include the authorized representative of the site Owner or developer, as well as the qualified inspector who performed the last site inspection ensuring that all of the criteria noted above have been met. Within urbanized MS4 areas, the principal executive officer or chief elected official of the municipality that administers the stormwater permit must also sign the NOT. The NOT is then submitted to NYSDEC Central Office in Albany.

How often must a site be inspected during temporary shutdown of operations? How do I get permission to decrease to this level?

If construction is temporarily suspended on a site due to the winter season or other circumstances, site inspections by the qualified inspector must be completed every 30 days instead of weekly. In order to decrease to this level, the entire site must undergo at least temporary stabilization in accordance with the NY Standards and Specifications for Erosion and Sediment Control, and permission must be received from NYSDEC or (in urbanized MS4 areas) from the local municipality responsible for administering the stormwater permit.



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What is the value of a pre-construction meeting? Who should attend these meetings?

A pre-construction meeting provides an opportunity for all parties involved in the implementation and enforcement of a Stormwater Pollution Prevention Plan for a site to discuss the progression, timeline, and logistics of construction, and to identify any potential issues before they arise. Attendees typically walk the site, identifying resource areas to be protected and discussing the proposed locations of structures and practices. Pre-construction meetings are valuable in developing a common understanding of expectations, particularly between representatives of the project owner and the municipality. Having this mutual understanding from the beginning prevents problems and miscommunication along the way, thereby increasing the efficiency and ease of SWPPP implementation. Pre-construction meetings typically are attended by the project owner, the owner's technical representative, the lead contractor, the qualified site inspector, the Code Enforcement Officer and/or Director of Planning, the municipal engineer, and preferably also the Highway Superintendent. Subcontractors with major roles in SWPPP implementation should also attend.

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Central New York Regional Planning & Development Board
126 North Salina St., 100 Clinton Square, Suite 200, Syracuse, NY 13202
phone: (315) 422-8276 fax: (315) 422-9051 mail@cnypdb.org www.cnypdb.org

