



Connecticut Association of Conservation Districts

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February 18, 2020

Christopher Stone, P.E.
Water Permitting and Enforcement Division
Bureau of Materials Management and Compliance Assurance
Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

Re: General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities

Dear Mr. Stone,

Thank you for the opportunity to comment on the Construction Stormwater General Permit. The conservation districts (Districts) look forward to working with DEEP to ensure that waters of the state are protected from the impacts associated with stormwater management during construction. The following comments are offered for your consideration and are divided into two main sections: 1) general comments on the permit, and 2) role of the Districts.

General Comments on Construction Stormwater General Permit

1. Definitions

- a. *“Guidelines”* – Recommend changing “Guidelines” to “E&S Guidelines” – this offers clarity in the body of the permit as to which guidelines are being referred to. Additionally, DEEP and the CT Council on Soil and Water Conservation are looking to update the 2002 guidelines. Although, the definition includes “as amended”, it is likely that the future update will have a new title (e.g. 2021 Connecticut Guidelines for Soil Erosion and Sediment Control). Language should be included that would provide for any subsequent revision of the 2002 E&S Guidelines.
- b. *“Qualified Inspector”* - Recommend substituting the following language:
“Qualified Inspector” means an individual possessing either (1) a bachelor’s degree in hydrology, engineering (agricultural, civil, environmental, or chemical), landscape architecture, geology, soil science, environmental science, natural resources management, or a related field and two years of professional and field experience, or (ii) the EnviroCert International, Inc. designation as a Certified Professional in Erosion and Sediment Control (CPESC), Certified Erosion, Sediment and Stormwater Inspector (CESSWI), or a Certified Professional in Stormwater Quality (CPSWQ); or (2) five years of demonstrable and focused experience in erosion and sediment control plan reading, installation, inspection and/or report writing for residential and commercial construction projects in accordance with the Guidelines; or (3) certification by the Connecticut Department of Transportation (DOT).

This change recognizes the various disciplines that are often involved in erosion and sediment control and also the certification process.

- c. *“Qualified soil erosion and sediment control professional”* – as written this definition limits this to a landscape architect or professional engineer. It excludes soil scientists, wetland scientists, agronomists, geo-hydrologists, and land use planners who actively work in not only inspecting but also reviewing, designing, and implementing E&S controls. By definition it even excludes USDA NRCS Soil Conservationists, who are specifically trained in erosion and sediment control. It also places greater emphasis on engineering solutions rather than LID solutions such as land use planning and soil health. The time requirement is also very limiting because it would require that a professional is 30 +/- years old (4 year degree plus 8 years of experience) and doesn’t provide any credit for having a college degree. The following language is recommended.

“Qualified soil erosion and sediment control professional” means an individual having one or more of the following minimum qualifications: (i) a bachelor’s degree in hydrology, engineering (agricultural, civil, environmental, or chemical), landscape architecture, geology, soil science, environmental science, natural resources management, or a related field and two years of professional and field experience, or (ii) the EnviroCert International, Inc. designation as a Certified Professional in Erosion and Sediment Control (CPESC), Certified Erosion, Sediment and Stormwater Inspector (CESSWI), or a Certified Professional in Stormwater Quality (CPSWQ). Such qualified soil erosion and sediment control professional shall remain in good standing with the Connecticut Department of Consumer Protection and the Commissioner.

2. Section 3 (d) – Small Construction

The language of the Small Construction defers E&S and stormwater controls to municipalities for projects under 5 acres. The last sentence of this section raises some concerns. It reads:

“In the absence of such municipal commission approval, the permittee shall register with the DEEP under the requirements for a Locally Exempt Project and comply with all applicable conditions of this general permit.” This seems to imply that if a municipality denies a permit, DEEP will consider the action under a Locally Exempt Project application. It is unlikely this is the intent of the language, which would be to undermine the local land use process. It is hard to imagine when a municipality would not undertake a review of a site plan on 5 acres but I understand DEEP’s concern. Perhaps it should state, that “In the absence of municipal review” rather than “In the absence of municipal approval”.

3. Section 5 – Conditions of this General Permit

It is recognized that this General Permit is for stormwater control and the overall goal is to allow for construction activity that results in long-term stormwater control that meets the state’s goals for water quality and quantity. It is important, however, that the permit strongly reflects the need for erosion and sediment controls during the construction process. Often, the emphasis by the designer is to focus on the final design and not the controls needed during construction.

Unfortunately, this is when the most damage to the water resource can occur. It is also important to recognize that E&S controls and stormwater management during construction may look very different from the final, stabilized stormwater control plan. As such, it is recommended that greater emphasis be placed on the development and implementation of an E&S control plan as a separate but integral part of the overall stormwater control plan.

- a. Recommend language in Section 5 (b) (1) (A) be amended as follows: “The Plan shall consist of site plan drawings and a narrative, **that includes both (a) an erosion and sediment control plan to be implemented during construction and (b) a stormwater**

control plan as part of the final design.

- b. Section 5(b)(1)(iii) “Wherever possible, site construction....section.” Use of “wherever possible” here is very weak and could allow for activities to be more environmentally detrimental based on disturbing larger portions of sites and leaving more open to stormwater impacts than would otherwise be needed. I suggest deleting “Wherever possible” from the sentence.
- c. Section 5(b)(2)(A)(i) “....disturbed portions of the site are minimized and stabilized.” I recommend that the following text be added at end of this sentence as follows: “...throughout the duration of the site work for the project.” It’s important to show that stabilization is not only critical at the end of the project.
- d. Section 5(b)(3) Additional Protection for Impaired Waters. Recommend that language be changed to include source water protection areas (drinking water supplies). Change language to read “Additional Protection for Impaired and Source Waters” and update the rest of the section to reflect this change. This would be in keeping with the implementation of the newly adopted State Water Plan. Additionally, add source water in the definition section using EPA’s definition of source water.

4. Appendices

- a. Appendix A. (threatened and endangered species) - Why the switch to a limited two-year determination from a one-year determination in the current version of the permit?
- b. Appendix B. (LID practices) - Why do we only "strongly encourage" use of LID measures here? Municipalities are requiring LID in their MS4 permits. Shouldn't DEEP do the same?

“In order to reduce the impact of development and address stormwater quality issues, the Department **strongly encourages** the use of Low Impact Development (LID) measures.”

- c. Appendix C. (Aquifer protection areas) - The following language also needs to be stronger. The use of "should" makes it optional, and I recommend it be replaced with “must”.
“The Stormwater Pollution Control Plan (“the Plan”) **should** consider measures to reduce or mitigate potential impacts to both ground water (aquifers) and surface waters, taking into consideration both quantity and quality of the runoff. The emphasis should be to minimize, to the extent possible, changes between pre-development and post-development runoff rates and volumes.”
- d. Appendix H. - Wild and Scenic Rivers list is incomplete. To be added: Farmington (Lower) River & Salmon Brook and Wood & Pawcatuck Rivers
- e. Appendix I. It is good to see that guidelines for solar arrays for been developed. They should be amended be more comprehensive and cover the following:
 - i. Site selection considerations
 - ii. Special considerations for developing E&S control plans and SWPCPs for large solar arrays
 - iii. Temporary measures for preventing impacts through the site clearing/construction process
 - iv. The guidelines make that assumption sheet flow is the existing condition on the site. It also assumes that this condition can be maintained during construction and into final design. Keeping or improving sheet flow on sites is an admirable goal but may be difficult to maintain throughout the construction process even if

it is feasible post-construction. A detailed E&S plan should be developed showing existing flow conditions and how water will flow over the site DURING construction and until final stabilization is realized.

- v. The solar array guidelines give very specific recommendations in section 1(c) under construction design. It may be better to refer to the E&S Guidelines and/or reference best management practices than to be so prescriptive. Erosion and sediment controls during construction are not only determined by % slope, but also by length of slope (sometimes more important) and type of soil. These same considerations should determine final design and stabilization.

Role of Districts in Stormwater General Permit

The Districts in Connecticut are proud to have been involved in controlling nonpoint source pollution, including soil erosion, since the 1940's. With the passage of the CT Inland Wetland and Watercourses Act in 1972, the districts, in coordination with DEEP and NRCS (formerly DEP and SCS), provided technical assistance and training to municipal wetland agencies implementing the new law. In 1985, it was the conservation districts, as part of the CT Council on Soil and Water Conservation, that worked to pass the Erosion and Sediment Control Act, that required local planning and zoning commissions to ensure that construction sites had E&S control plans. This act named the conservation districts as available to certify such plans for the towns. Additionally, Districts were involved in the development of the E&S Guidelines and the Stormwater Manual and are leaders in watershed management in the State.

Currently, the Districts provide technical assistance to local land use commissions and other land users on E&S controls, stormwater management, watershed management, source water protection, and inland wetlands protection. This permit provides for the Districts to be involved in both the locally approvable and locally exempt process assisting the DEEP with its water quality mission. As a neutral third party, the Districts are able to provide unbiased review and inspection services during the construction process through final stabilization.

DEEP is looking closely at its workforce as part of its 20by20 initiative. As presented, the locally exempt MOA restricts the Districts to conducting inspections only. It may be prudent, as part of the 20by20 strategic planning effort, to make sure that this permit does not limit the assistance that Districts can provide to DEEP. Districts are capable of reviewing and making recommendations on E&S control plans if DEEP needed this assistance. It is recommended that DEEP and the Districts further review the MOA's as part of this process to ensure that future needs can be met without modifying the permit.

Sincerely,



Denise Savageau, President
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